

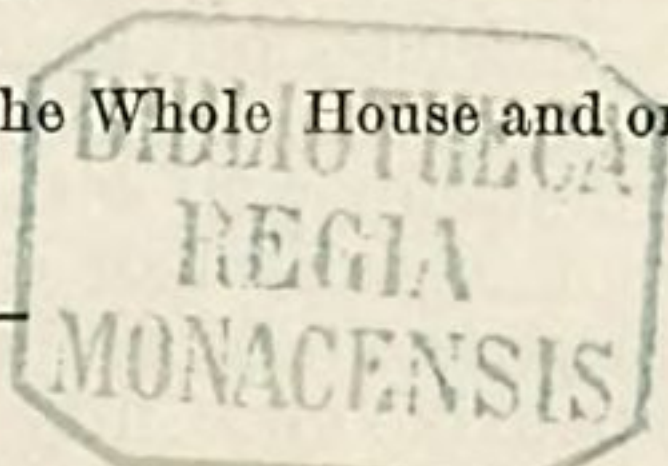
8^o Am. B. 3040

(496)

Proceedings

THOMAS S. TEFFT.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.



Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8299.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8299) granting an increase of pension to Thomas S. Tefft, have examined the same and the evidence, and respectfully report:

This bill as amended proposes to increase from \$12 to \$30 per month the pension of Thomas S. Tefft, of Belmont, Allegany County, N. Y., who served from August 11, 1862, to June 30, 1865, when honorably discharged.

There is no record of disability or treatment while in service, but there is evidence to show that he contracted rheumatism in line of duty, from which he now suffers.

Claimant says he was at the front all the time and was never excused from duty for a day while in the service. This is to his credit, and does not disprove the fact that he contracted rheumatism in the service.

He filed a claim September 7, 1887, under the general law, based on rheumatism, but that claim was rejected August 22, 1895, on the ground of "no pensionable degree of disability shown from alleged rheumatism since date claim was filed. No results."

July 8, 1890, he filed a claim under act of June 27, 1890, based on loss of both legs, failing eyesight, and rheumatism, established the same, and was pensioned at \$12 from date of filing for disease of heart and loss of both feet. His feet were lost by reason of his being accidentally run over by a railroad coach in 1882. He wears artificial feet a part of the time, but part of the time can not do so in consequence of the sore condition of the stumps, and then he has to get around on his knees, on which he wears leather pads. He is employed as assistant by the clerk of Allegany County, N. Y., but earns but little. He is unable to work part of the time. He has large ulcers on the stumps of his limbs; also has nervous prostration, general weakness, and diabetes.

He has a family, consisting of a wife and seven children. It is shown that he has no income or means of support except his \$12 pension and his small earnings.

The soldier is now 54 years of age and very needy. His children can do but little to aid him. His disability is increasing.

Your committee is not in sympathy with those who advocate the largest pensions for those who did the least duty and who made the longest medical record.

Absence of a medical record is no evidence whatever, in many cases, that the soldier did not receive his alleged disabilities in the service. The writer of this report, when in the service, knew dozens of brave soldiers who were suffering from rheumatism or diarrhea, and yet who did not visit the surgeon or hospital. They came home broken in health with a clean and honorable military record, but in bad odor with the medical referee. This man stood by the flag, is now poor and needy, and stands well with the country.

This committee reports the bill back with the recommendation that it pass when amended as follows:

In line 6 strike out "fifty" and insert in lieu thereof "thirty."

Statement of applicant.

In the matter of the application of Thomas S. Tefft for a pension by special act of Congress.

I, Thomas S. Tefft, the applicant above referred to, hereby state and declare in relation to the said application as follows:

That my name is Thomas S. Tefft; residence and post-office address, Belmont, Alleghany County, N. Y.

That I was a soldier in the last war; that I enlisted on the 11th day of August, 1862, for three years or during the war, in the One hundred and thirtieth New York Regiment, Volunteer Infantry, which afterwards became the First New York Dragoons, commanded by Col. Alfred Gibbs, and was discharged on the 30th day of May, 1865, at Cloud's Mills, Virginia. That said regiment served all the time in Virginia; first as infantry, then as cavalry, and the last year under Gen. Philip H. Sheridan.

That the history of the said regiment which, according to its roster, lost men in forty-five different engagements, captured 1,533 prisoners, 19 pieces of artillery, 21 caissons, 240 artillery horses, 40 wagons and ambulances, 160 animals of draft, and 4 battle flags, with a loss to the regiment of 468 men, is my army record.

That I went out with the regiment and stayed until honorably discharged at the close of the war. That I was at the front all of the time, and never excused a day from duty while there. That I was honorably discharged.

That I am now drawing a pension of \$12 per month under the law of June 27, 1890, which is the maximum pension allowed under that law.

That I have a wife and seven children to support, none of whom are at present able to contribute much toward my support.

That previous to the loss of my limbs I never applied for a pension.

That in 1882, while in the employ of the New York, Lake Erie and Western Railroad Company as a bridge carpenter, I met with an accident which deprived me of both limbs, one being cut off at the ankle and the other at the knee.

That I wear two artificial limbs when able to do so, but my weight, which is 223 pounds, makes it pretty hard on my stumps, which also break out and are extremely sore, sometimes for months at a time, paining me so that I can not sleep nights and causing me to lose much time.

That my nervous system is in bad condition and my health is becoming greatly impaired, so much so that I am fearful that I can not hold my position much longer. For further and more complete particulars in regard to my health I inclose Dr. H. A. Barney's and Dr. J. C. Earle's affidavits.

That I am absolutely unable to do any manual labor; I have been for the fourteen years last past employed as assistant clerk; and if I lose my position, as I am likely to do by reason of ill health, I do not know what I could do to earn a living for my family.

That I am holding my present position under the kindness, courtesy, and indulgence of the present county clerk, by appointment, who can, or any other clerk who succeeds him may, refuse to give me employment, and thus deprive me of my only way of getting a living, except what I get by the way of pension from the Government.

THOMAS S. TEFFT.

BELMONT, N. Y., December 15, 1897.

STATE OF NEW YORK, *Allegany County*, ss:

H. A. Barney, being duly sworn, says that he is a practicing physician and surgeon and has been for the past nine years, and that his residence and place where he practices his profession is at Belmont, Allegany County and State of New York.

And deponent further says that he has so practiced his profession at Belmont aforesaid for the past nine years and has been acquainted with Thomas S. Tefft for that length of time; that the said Tefft is employed in the clerk's office of Allegany County, which is located at Belmont aforesaid; that deponent has been the family physician of the said Thomas S. Tefft for the past nine years; that when deponent first knew said Tefft he was in fair physical condition except that he had lost both of his feet at that time, one being cut off at the knee and the other at the ankle and just above the ankle joint; that from the time deponent was first called to treat said Tefft until the present time he has grown gradually worse, until at the present time he is in a bad physical condition; that he is suffering from large ulcers on the stumps of his limbs which it has been impossible to heal, and which prevent the use of artificial limbs most of the time; that he is compelled to crawl around on leather pads fastened to his knee joints; that he is suffering severely from nervous prostration and general weakness as a result of the loss of his legs. Two years ago deponent treated said Tefft for diabetes, from which he apparently recovered for a time, but that he now has a relapse of the disease, and, to the best of his knowledge and belief, he will continue to grow gradually worse, and will soon be unfit to perform any kind of labor, mental or physical.

And deponent further says that he verily believes that it is but a short time when the said Tefft will die from the effects of diabetes; that he is a large, fleshy man, commonly weighing about 220 pounds, and that during the last month he has lost nearly twenty pounds in flesh; that he is a man having a large family, comprising a wife and seven children, dependent upon him to a large extent for their support; that he has no means of supporting himself and family, except a small pension of \$12 per month, and what he receives from his daily labors in the clerk's office, and deponent verily believes that it would be but an act of justice for the honorable Congress of the United States to grant to this crippled soldier the relief for which he prays.

H. A. BARNEY, M. D.

Subscribed and sworn to before me this 16th day of December, 1897.

ELDYU REYNOLDS, *Justice of the Peace*.

STATE OF NEW YORK, *Allegany County*, ss:

J. C. Earle, being duly sworn, says that he is a practicing physician and surgeon, and that he resides at and practices his profession at Belmont, Allegany County, and State of New York; that he has been in active practice as a physician and surgeon for the past ten years, and that he is now a member of the examining board of physicians for the Pension Department of the United States; that he knows Thomas S. Tefft, who resides in Belmont aforesaid, and that he has been acquainted with him for the past two years.

And deponent further says that the said Tefft is in a crippled condition, having lost both feet before deponent met him; that he is working in the county clerk's office and has been since the deponent knew him; that owing to his physical condition he is obliged to quit his work in the clerk's office for a considerable portion of the time; that he is very nervous, and generally is in need of aid; that he is a very large, fleshy man, weighing about 220 pounds, and a good portion of the time is unable to wear artificial limbs, but has to creep around on his stumps with leather pads strapped to his knees; that he is a man of a large family of seven children dependent upon him for support, and, as deponent is informed and verily believes, the said Tefft has no means of supporting himself or his family except a small pension of \$12 per month and what he earns by his daily labor in the clerk's office; and deponent verily believes that it would be but an act of justice to this crippled soldier if Congress should grant him the relief for which he asks.

JAS. C. EARLE.

Subscribed and sworn to before me this 16th day of December, 1897.

ELDYN REYNOLDS, *Justice of the Peace*.

In the matter of the petition of Thomas S. Tefft for a pension by special act of Congress.

George A. Green, of the town of Amity, county of Allegany and State of New York, being duly sworn in relation to the above petition, deposes and says as follows: That he now is and for the last nine years last past has been clerk of the county of Allegany; that he is personally well acquainted with the said Tefft; that he has been employed by said deponent as assistant clerk all the time since he took charge

of said office; that the said Tefft is disabled by having both feet cut off; that by reason thereof he is always very lame, and so much so at times that it is impossible for him to attend to his duties at said clerk's office; that although he has and wears two artificial limbs, still at times he is so much disabled that he can not wear said artificials, and comes to the office on his knees; that he has a large family dependent on him for support, and who are not in a situation at present to contribute much to his support and maintenance, and deponent has every reason to believe that said Tefft has a hard time to support himself and family; that by reason of such disability he is still able to work only a fractional part of the year, and has so been for years.

GEO. A. GREEN,
Allegany County Clerk.

Subscribed and sworn to before me this 13th day of November, 1897.

CHAS. H. BROWN,
Notary Public.

To the President, Senators, and Representatives of Congress of the United States of America, at Washington, D. C., assembled.

GENTLEMEN: We, the undersigned supervisors of the county of Allegany, each representing a different town of said county, do hereby petition you as follows, viz:

That you, by special act, grant a pension to one Thomas S. Tefft, of the village of Belmont, county of Allegany and State of New York, he being unfortunate in the loss of both his limbs and deserving.

G. H. Witter, Wellsville; A. L. Litchard, Rushford; S. B. Luckey, Granger; N. B. Sherman, Caneadea; I. S. Hunt, Belfast; H. A. Corbin, Friendship; Geo. W. D'Autremont, Hume; M. J. Dunn, New Hudson; T. N. Boyd, Andover; G. W. Watson, West Almond; D. S. Burdick, Alfred; E. E. Sisson, Almond; D. M. Hancock, Centerville; John Carpenter, Birdsall; J. D. Jacobs, Independence; T. B. Burdick, Genesee; H. A. Barney, Amity; K. S. Black, Scio; J. F. McGibeny, Wirt; J. B. Love, Clarksville; C. E. Lesner, Bolivar; Geo. Anisden, Cuba; G. Lincoln, Allen; F. E. Elliott, Alma; Fred Shear, Willing; N. S. Fay, Burns; Murray Farwell, Wards; D. D. Dickson, Angelica.

We, the undersigned citizens of Allegany County, N. Y., hereby petition the President and Congress of the United States to grant a pension to one Thomas S. Tefft, of Belmont, Allegany County, N. Y., by "special act," he being a soldier of the late war, and disabled by the loss of both feet since the close of the war.

Geo. A. Green, Allegany County clerk; S. M. Norton, Allegany County judge; Chas. H. Brown, district attorney for Allegany County; Geo. H. Swift, sheriff Allegany County; Seth H. Tracy, attorney; V. A. Willard, attorney; Oscar M. Burdick, school commissioner; W. S. Webster, special deputy county clerk; O. A. Fuller, ex-district attorney Allegany County; J. C. Leggett, attorney; James R. Hodnett, sheriff-elect; J. S. Phillips, attorney; B. P. Mapes, attorney; Clarence A. Farnum, attorney at law; Ransom L. Richardson, attorney at law; Hamilton Merd, jr., assistant district attorney, Erie County, Buffalo, N. Y.; Walter D. Ormiston, attorney; Crayton L. Earley, attorney; Geo. H. Blackman, Wellsville, N. Y., attorney; F. M. Todd, attorney, Cuba, N. Y.; Frederic H. Church, Wellsville, N. Y., attorney; W. N. Renwick, attorney, Cuba, N. Y.; G. W. Harding, attorney, Hume, N. Y.; Charles Stillman, clerk board of supervisors; D. C. Grunder, superintendent poor; D. D. Dickson, attorney and counsellor at law; Frank B. Church, attorney and counsellor at law; A. P. McIntosh, attorney, etc.; A. L. Elliott, attorney; Charles Ricker, treasurer of Allegany County; Jno. W. Blackman, Wellsville, N. Y.; Sidney Crandall, superintendent of poor, Allegany County; E. S. Richardson, special deputy county clerk; Elba Reynolds, attorney, Belmont, N. Y.; C. W. Canter, jr., banker, Belmont, N. Y.; M. W. Sortore, grocer, Belmont, N. Y.; Jesse Sortore, grocer, Belmont, N. Y.; M. E. Davis, general store, Belmont, N. Y.; G. N. Cline, deputy sheriff, Belmont, N. Y.; J. M. Brodt, grocer, Belmont, N. Y.; P. K. Holden, town clerk, Belmont, N. Y.; J. D. Holden, clothing, Belmont, N. Y.; C. G. Anderson & Son, druggists, Belmont, N. Y.; Geo. Peck, jeweler, Belmont, N. Y.; J. N. Hyde, clerk of surrogate's court; D. T. Williams, shoe dealer, Belmont, N. Y.; J. Hoyt Corbin & Co., hardware, Belmont, N. Y.; C. E. Daire, dry goods, Belmont, N. Y.; H. W. Farwell, jeweler; Eldyn Reynolds, attorney, Belmont, N. Y.

LAURITZ OLSEN.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7321.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7321) granting an increase of pension to Lauritz Olsen, have examined the same and all the evidence relating thereto, and respectfully report:

This bill as amended proposes to increase from \$12 to \$40 per month the pension of Lauritz Olsen, of Winona, Minn., late a private in the Second Battalion Minnesota Light Artillery, who served from February 21, 1862, to August 16, 1865, and was honorably discharged. The records show that he was sick and in hospital a number of times during his term of about three and a half years in the service, and that he was treated for typhoid fever in hospital at Nashville, Tenn., from September 5 to November 26, 1862.

He filed and established a claim under the general law for chronic diarrhea and was pensioned for debility, the result of chronic diarrhea, at \$4 per month from January 11, 1881, until July 5, 1890, the date of filing the claim under the act of June 27, 1890, and thereafter under said act at \$12 per month for debility, the result of chronic diarrhea, and for loss of both hands.

It appears from evidence before this committee that claimant suffered the loss of both forearms by the premature discharge of a cannon on the 10th day of November, 1888. At a medical examination by a board, October 28, 1891, claimant was rated twelve-eighteenths for chronic diarrhea and resulting disease of digestive organs, and six-eighteenths for affection of eyes, the former due to service and so accepted, the latter alleged, but not accepted as due to service. It is also shown by evidence that this soldier has a family consisting of a wife and three children, one of whom is a cripple unable to do any hard manual labor; another one 14 years of age; that his only property is his homestead, which does not exceed in value \$1,200, and a small sum of money, to wit, \$118, in bank.

He has no income or means of support aside from this and his pension of \$12 per month under the act of June 27, 1890.

The soldier has disabilities of service origin entitling him to a pension of \$18 per month under the most adverse construction of the evidence. It is probably a \$24 disability. The loss of both hands by no fault of his since the war imposes no obligation on the Government except that which it owes to all soldiers, and which is to render reasonable aid. An increase of \$15 per month on this ground is not regarded as extravagant or ill-advised legislation, and is made the more proper when we consider the crippled child who will always be dependent on the soldier for its support.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 6 strike out the words "of fifty," and insert in lieu thereof the words "at the rate of forty."

Amend the title so as to read, "A bill granting an increase of pension to Lauritz Olsen."

STATE OF MINNESOTA, *County of Winona, ss:*

In the matter of Lauritz Olsen, late private, Second Battery Minnesota Light Artillery, on this 18th day of January, A. D. 1898, personally appeared before me B. A. Man, a notary public in and for the aforesaid county, duly authorized to administer oaths, J. B. McGaughey, M. D., aged 55 years, a resident of the city of Winona, in the county of Winona and State of Minnesota, whose post-office address is 216 Center street, Winona, Minn., well known to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows: That he has known said Lauritz Olsen since April, 1867, having been his family physician during the most of that time. Said Olsen suffered at times from conjunctivitis and ulceration of the cornea. That prior to 1885 ulcerations of the cornea were often present, and were so severe that rest and protection from light were necessary. Said Olsen attributed, justly as affiant believes, the affection of eyes to depressed condition of the system, resulting from chronic diarrhea and malarial poisoning, from which he suffered during the service and for some years after discharge therefrom. Said Olsen's vision remains impaired from causes above mentioned. Further, that from April, 1867, until November 8, 1888, at which time said Olsen suffered amputation of both forearms, he was at all times at least one-half, and frequently totally disabled for the performance of manual labor. Affiant further declares that the body of this affidavit is in his own handwriting.

I further declare that I have no interest in said case, and am not concerned in its prosecution.

J. B. MCGAUGHEY, M. D.

STATE OF MINNESOTA, *County of Winona, ss:*

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said affiant, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

B. A. MAN, *Notary Public.*

STATE OF MINNESOTA, *County of Winona, ss:*

Frank E. Gartside came before me personally and, being first duly sworn, upon oath says that he is a resident of the city of Winona, State of Minnesota, and that his post-office address is 175 West Fourth street in said city of Winona. He is proprietor of the Winona steam laundry; he is 36 years of age; he is now and for ten years last past has been well and intimately acquainted with Lauritz Olson, of Winona, Minn., who lost both arms by the premature discharge of a cannon in said city of Winona. He knows of the family of said Lauritz Olson, and that said family now consists of his wife, Randena Olson, and three children, to wit: Laura Olson, Albert Olson, and Louis Olson. As affiant verily believes, the said Randena Olson,

Laura Olson; Albert Olson, and Louis Olson, are entirely dependent upon the said Lauritz Olson for their support, with the exception of said Laura Olson, who is employed in the music store of Babcock & Elmer, of said city of Winona, at a small or nominal salary which, as affiant is informed, is scarcely sufficient to supply her with her own clothes.

Affiant further states that Albert Olson, who is 20 years of age, is a cripple so that he is unable to do any hard manual labor; said Louis Olson is only 14 years of age, and is unable to contribute anything toward the family income. Affiant further states that he is acquainted with the business affairs and financial condition of said Lauritz Olson, and that, as he verily believes, the said Lauritz Olson has no source of income at the present time except his pension of \$12 per month, and that his entire property consists of his homestead, which does not exceed in value the sum of \$1,200, and a very small amount of money, which money, as affiant is informed and believes, is not more than sufficient to support said Lauritz Olson for the period of six months.

Affiant further states that he has read the foregoing affidavit and knows the contents thereof, and that the same is true of his own knowledge.

FRANK E. GARTSIDE.

Subscribed and sworn to before me this 3d day of March, 1898.

[SEAL.]

WEEK J. SMITH,
Notary Public, Winona County, Minn.

STATE OF MINNESOTA, *County of Winona, ss:*

Lauritz Olson came before me personally, and, being first duly sworn, upon oath says that he is a resident of the city of Winona, State of Minnesota, and that his post-office address is 515 Main street, in said city of Winona, Minn; he is 58 years of age; there are now dependent upon him for support his wife, Randena Olson, and three children, to wit, Laura Olson, Albert Olson, and Louis Olson. Said Laura Olson is 23 years of age; said Albert Olson is 20 years of age, and is a cripple, so that he is unable to do any hard manual labor; said Louis Olson is 14 years of age; all of said children are entirely dependent upon this affiant for their support, except the said Laura Olson, whose income is not sufficient to supply her with clothing.

Affiant further states that he has no income except his pension of \$12 per month, and that his entire property consists of his homestead, which does not exceed in value the sum of \$1,200, and the sum of \$118 in the bank; he has no other property of any kind or character than that above mentioned. Affiant verily believes that in less than six months' time he will have no property whatever except his said homestead and his said pension of \$12 per month.

Affiant further states that he has read the foregoing affidavit and knows the contents thereof, and that the same is true of his own knowledge.

LAURITZ (his x mark) OLSON.

Subscribed and sworn to before me this 28th day of February, 1898.

[SEAL.]

WEEK J. SMITH,
Notary Public, Winona County, Minn.

STATE OF MINNESOTA, *County of Winona, ss:*

Helmer H. Lee came before me personally, and, being first duly sworn, upon oath says that he is a resident of the city of Winona, State of Minnesota, and that his post-office address is 406 East Fourth street in said city of Winona, and that his business is that of a shoe merchant; he is 44 years of age; that he is now, and for more than fifteen years last past has been, well and intimately acquainted with Lauritz Olson, of Winona, Minn., who lost both arms by the premature discharge of a cannon in said city of Winona; he knows the family of said Lauritz Olson, and that said family now consists of his wife, Randena Olson, and three children, to wit, Laura Olson, Albert Olson, and Louis Olson. As affiant verily believes, the said Randena Olson, Laura Olson, Albert Olson, and Louis Olson, are entirely dependent upon the said Lauritz Olson for their support, with the exception of said Laura Olson, who is employed in the music store of Babcock & Elmer, of said city of Winona, at a small or nominal salary which, as affiant is informed, is scarcely sufficient to supply her with her own clothes.

Affiant further states that Albert Olson, who is 20 years of age, is a cripple, so that he is unable to do any hard manual labor; that said Louis Olson is only 14 years of age, and is unable to contribute anything toward the family income. Affiant further

states that he is acquainted with the business affairs and financial condition of said Lauritz Olson, and that, as he verily believes, the said Lauritz Olson has no source of income at the present time except his pension of \$12 per month, and that his entire property consists of his homestead, which does not exceed in value the sum of \$1,200, and a very small amount of money, which money, as affiant is informed and believes, is not more than sufficient to support said Lauritz Olson for the period of six months.

Affiant further states that he has read the foregoing affidavit and knows the contents thereof, and that the same is true of his own knowledge.

HELMER H. LEE.

Subscribed and sworn to before me this 3d day of March, 1898.

[SEAL.]

WEEK J. SMITH,
Notary Public, Winona County, Minn.

STATE OF MINNESOTA, County of Winona, ss:

William H. Tolleson came before me personally, and, being first duly sworn, upon oath says that he is a resident of the city of Winona, State of Minnesota, and that his post-office address is 277 East Sanborn street, in said city of Winona; he is county treasurer of said Winona County; he is 53 years of age; he is now, and for more than fifteen years last past has been, well and intimately acquainted with Lauritz Olson, of Winona, Minn., who lost both arms by the premature discharge of a cannon in said city of Winona; he knows the family of said Lauritz Olson, and that said family now consists of his wife, Randena Olson, and three children, to wit, Laura Olson, Albert Olson, and Louis Olson. As affiant verily believes, the said Randena Olson, Laura Olson, Albert Olson, and Louis Olson are entirely dependent upon the said Lauritz Olson for their support, with the exception of said Laura Olson, who is employed in the music store of Babcock & Elmer, of said city of Winona, at a small or nominal salary which, as affiant is informed, is scarcely sufficient to supply her with her own clothes.

Affiant further states that Albert Olson, who is 20 years of age, is a cripple, so that he is unable to do any hard manual labor; that said Louis Olson is only 14 years of age, and is unable to contribute anything toward the family income. Affiant further states that he is acquainted with the business affairs and financial condition of said Lauritz Olson, and that, as he verily believes, the said Lauritz Olson has no source of income at the present time except his pension of \$12 per month, and that his entire property consists of his homestead, which does not exceed in value the sum of \$1,200, and a very small amount of money, which money, as affiant is informed and believes, is not more than sufficient to support said Lauritz Olson for the period of six months.

Affiant further states that he has read the foregoing affidavit and knows the contents thereof, and that the same is true of his own knowledge.

WILLIAM H. TOLLESON.

Subscribed and sworn to before me this 3d day of March, 1898.

[SEAL.]

WEEK J. SMITH,
Notary Public, Winona County, Minn.

STATE OF MINNESOTA, County of Winona, ss:

Francis T. Church came before me personally, and, being first duly sworn, upon oath says that he is a resident of the city of Winona, State of Minnesota, and that his post-office address is 303 East Wabasha street, in said city of Winona; his business is that of a clothier; he is 48 years of age; he is now and for more than fifteen years last past has been well and intimately acquainted with Lauritz Olson, of Winona, Minn., who lost both arms by the premature discharge of a cannon in said city of Winona; he knows the family of said Lauritz Olson, and that said family now consists of his wife, Randena Olson, and three children, to wit, Laura Olson, Albert Olson, and Louis Olson. As affiant verily believes the said Randena Olson, Laura Olson, Albert Olson, and Louis Olson are entirely dependent upon the said Lauritz Olson for their support, with the exception of said Laura Olson, who is employed in the music store of Babcock & Elmer, of said city of Winona, at a small or nominal salary, which, as affiant is informed, is scarcely sufficient to supply her with her own clothes.

Affiant further states that Albert Olson, who is 20 years of age, is a cripple so that he is unable to do any hard manual labor; that said Louis Olson is only 14 years of age, and is unable to contribute anything toward the family income. Affiant further

states that he is acquainted with the business affairs and financial condition of said Lauritz Olsen, and that, as he verily believes, the said Lauritz Olsen has no source of income at the present time except his pension of \$12 per month, and that his entire property consists of his homestead, which does not exceed in value the sum of \$1,200, and a very small amount of money, which money, as affiant is informed and believes, is not more than sufficient to support said Lauritz Olsen for the period of six months.

Affiant further states that he has read the foregoing affidavit and knows the contents thereof and that the same is true of his own knowledge.

FRANCIS T. CHURCH.

Subscribed and sworn to before me this 8th day of March, 1898.

[SEAL.]

WEEK J. SMITH,
Notary Public, Winona County, Minn.

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WILLIAM TOMPKINS.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8680.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8680) granting an increase of pension to William Tompkins, have examined the same and all the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$50 per month the pension of William Tompkins, of Ithaca, N. Y. This soldier is now blind, helpless from rheumatism and diarrhea, and very poor. He has a wife to support, who is also poor. He, of course, requires the constant aid and attendance of another. This soldier enlisted August 27, 1861, and was discharged June 21, 1865, after a service of nearly four years in Company F, Eleventh Pennsylvania Volunteer Cavalry.

This soldier was captured in battle, having received a gunshot wound in the head, June 9, 1864, and was confined in the Confederate prison at Andersonville until April 21, 1865, when he was paroled, and June 21, 1865, he was discharged, having been under medical treatment from the day he was paroled to the day he was discharged for diseases and disabilities incurred in the service and while in said prison.

Capt. B. B. Mitchell, captain of the company in which the soldier served, swears that he was present when Tompkins was captured; that he knew him well, and that he was then "a well, healthy, and able-bodied man and a brave and efficient soldier." It is also proved, by an abundance of credible and uncontradicted testimony, that the soldier was a strong, able-bodied young man when he entered the service and in perfect health. By an abundance of testimony of the same class it is also proven beyond any question, and is not disputed by a syllable of testimony, that when the soldier regained the Union lines after his release from Andersonville he was suffering from chronic diarrhea, scurvy, rheumatism, and diseased eyes. He was treated three weeks at Cold Spring Hospital, near Philadelphia, for these disabilities before sent home. His weight when captured was about 165 pounds and when released was about 85 pounds.

It is also shown by the testimony of his family, friends, neighbors, and attending physicians that he has suffered from rheumatism, chronic diarrhea, and diseased eyes continuously since leaving the Army until physical helplessness from rheumatism and blindness has resulted.

It is also proved by an abundance of testimony, and it is not contradicted, that the soldier's habits are good, that they always have been, and that his present condition is not the result of vicious habits or conduct.

It is shown that all of the soldier's comrades who were captured with him, except one, died in Andersonville prison. The other died soon after. The Pension Bureau, notwithstanding these facts, has refused to acknowledge the soldier's disabilities as of service origin, because he can not prove by testimony other than his own that he incurred these diseases while undergoing the hardships, privations, and sufferings of prison life in Andersonville. The records of the War Department show that May 27, 1865, the soldier was admitted into hospital, suffering with "diarrhea." June 16, 1894, Col. F. C. Ainsworth certified to Commissioner of Pensions as follows:

Prisoner of War Records show him admitted to hospital at Andersonville, Ga., December 31, 1864, with "rheumatism;" receipted for at Vicksburg, Miss., as a paroled prisoner April 21, 1865.

October 20, 1893, J. L. Davenport, reviewer, now first department commander, said:

The record shows the soldier captured June 9, 1864, delivered at Vicksburg, Miss., April 21, 1865. Admitted to hospital, discharged barracks, Philadelphia, Pa., May 27, 1865, with diarrhea, and discharged from the service June 21, 1865. The evidence taken by special examination shows chronic diarrhea, great emaciation, and a generally broken-down condition when he reached home; not able to perform any labor for some years, and that in about one year after discharge his eyesight began to fail and has continuously grown worse.

A reference to the report of the special examiners and the evidence annexed shows that the soldier's eyes were sore, red, inflamed, etc., when he reached home; that he could not see to do anything correctly; that within a year his eyesight had so failed that he pulled up vegetables for weeds (he was raised a farmer), and had to feel for the doorknob, etc.

The Pension Bureau is thus confronted with these facts:

1. Four years of hard, active army life, one of which was spent in a rebel prison at Andersonville.

2. Positive proof that the soldier was young, healthy, and strong when captured, excepting only the wound in the head received that day.

3. Record evidence that the soldier had and was treated for rheumatism while a prisoner.

4. Record evidence that he had chronic diarrhea when he came out of the rebel prison, and was treated in the hospital therefor immediately, and was greatly reduced in strength and weight, etc.

5. Evidence that he was broken down with scurvy, diarrhea, and rheumatism while in prison, and that his eyes were diseased.

6. Evidence that he could not work for years; that his eyesight almost immediately began to fail; that his diarrhea and rheumatism have always troubled him; that his disabilities are not due in any degree to vicious habits, and that almost total blindness and inability to move about have resulted.

7. No pretense that evidence exists showing or tending to show any of these conditions to be the result of anything occurring since the soldier was discharged.

What is the fair, legitimate, and logical conclusion?

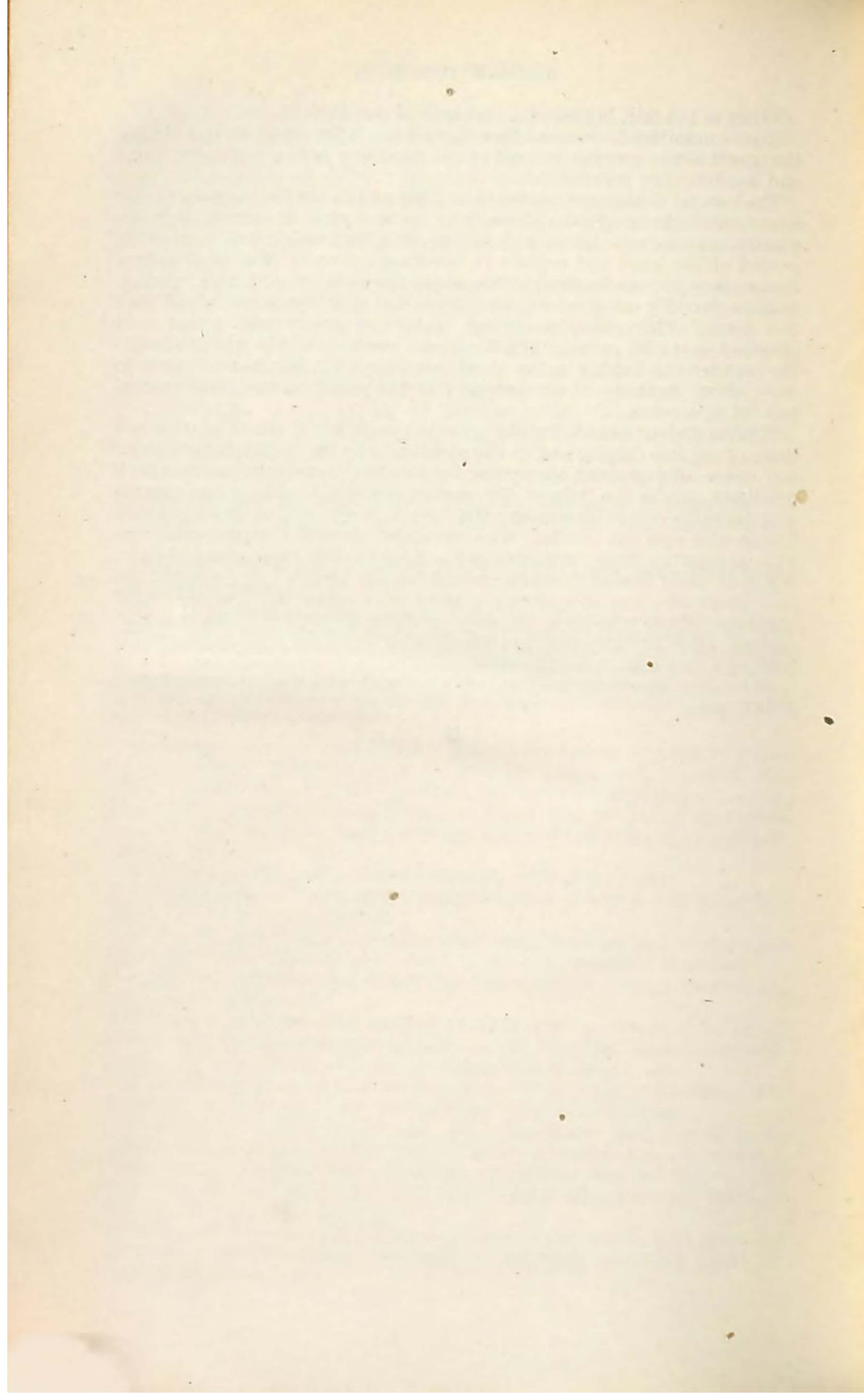
Your committee is satisfied that these disabilities are of service origin, the result of the gunshot wound in the head and subsequent privations and hardships of prison life.

The special examiners reported in favor of the soldier, subject to the approval of the medical referee, who, as a matter of course, from his standpoint can not see any pathological connection between gunshot wound of the head and neglect in treatment thereof, chronic diarrhea, rheumatism, no medical attention, exposure to heat, cold, fogs, storms, malaria, feeding on diseased, poorly cooked, and insufficient food, and the use of filthy and poisonous water as producing causes and diseased eyes and present blindness as a result. Your committee can. We wonder the soldier is not dead, not that he is blind and unable to move about because of rheumatism, as the result of the diseases contracted in service.

With sufficient causes for the present condition of the soldier shown to be of service origin, and in the absence of evidence tending to show any cause arising since his service terminated that might produce such condition, it was the duty of the medical referee to admit the natural and probable result (shown to exist) as the result of the causes proved. Those who saw our soldiers who survived to return from Andersonville remember their skeleton and pinched forms, their glassy, haunting eyes, their diseased condition and broken health. We wonder not that those who live now are mere physical wrecks, but that they still survive. Those who have recently seen the horrors of Cuba tell harrowing tales of suffering, but those who experienced Andersonville both saw and felt, and still suffer.

This committee therefore report the bill back with the recommendation that it pass.





NEWTON W. COOPER.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4189.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4189) granting an increase of pension to Newton W. Cooper, have examined the same and all the evidence relating thereto with great care and most respectfully report:

The bill as amended proposes to increase from \$12 to \$50 per month the pension of Newton W. Cooper, of Kirksville, Mo.

This soldier enlisted September 23, 1862, in Company H, Third Pennsylvania Heavy Artillery; was present for duty until August 17, 1863; then in hospital, with remittent fever and neuralgia in head, until October 3, 1863, when transferred to the Invalid Corps on account of nervous headache. He was discharged, on surgeon's certificate of disability, June 13, 1865, on account of—

The effect of sunstroke, received on the march from Gettysburg July 7, 1863, rendering him unable to endure the heat of the sun and totally incapacitating him from marching. He is also subject to severe attacks of cephalalgia, of a neuralgic nature.

He filed a claim July 7, 1879, alleging that he had chronic diarrhea first before the battle of Gettysburg and was afterwards attacked with remittent fever and with disease of the spine, caused by exposure and long marches without food, and that these difficulties finally resulted in a bronchial or lung disease and weakness and disease of the spine. E. Ferguson, M. D., testified, under date of March 11, 1879, that he knew claimant from 1866 to 1868, and that he was laboring under bronchial disease; also lumbago, or pain in the back.

J. D. Schooley, M. D., testifies that in 1869 and 1870 he treated claimant for chronic bronchial disease and dysentery. He was in feeble health and remained so during his stay of some two years. His disease appeared to be a general impairment of his nervous system.

Ethan Allen, M. D., in 1882 testified that he had known claimant for about six years, during which time he had been suffering from a bronchial difficulty, accompanied with severe purulent expectoration, and that he was also suffering from a severe spinal difficulty, consisting in

a subacute inflammation of the meninges, spinal cord, and brain, which prevented him from performing manual labor; that his diseases have not been aggravated by intoxication or other pernicious habits.

I. E. Bennett, M. D., also testified to the existence of disease of a bronchial character and a disease of meninges, spinal cord, and brain, preventing him from performing any manual labor; not aggravated by vicious habits.

Examination in 1882 showed "neuralgia of the spinal muscles and general debility."

To sum up, claimant in 1863 had chronic diarrhea, intermittent fever, and sunstroke, and June 13, 1865, he was discharged because of "the effects of sunstroke rendering him unable to endure the heat of the sun, and totally incapacitating him from marching. He is also subject to severe attacks of cephalalgia of a neuralgic nature." Medical evidence shows that from 1866 to 1868 he was laboring under pain in the back, which the physician thought was due to lumbago. In 1869 and 1870 he is shown by medical evidence to have been in feeble health; his disease appeared to be a general impairment of his nervous system. From 1876 to 1882 medical evidence shows that he was suffering from a severe spinal difficulty, consisting in a subacute inflammation of the meninges, spinal cord, and brain, which prevented him from performing manual labor.

Examination in 1882 showed "neuralgia of the spinal muscles and general debility."

The usual results of sunstroke are affection of the brain, spine, and nervous system, and it seems that these results have followed the sunstroke in this case, and the evidence seems to clearly connect the disease of spine and nervous system with the sunstroke of record in service.

May 1, 1893, this man was completely paralyzed, and was found in that condition, having fallen or been thrown from his wagon, but whether the paralysis was the cause or the result of the fall is not satisfactorily shown by the evidence. The witnesses who have testified as to the fall and the complete paralysis do not appear to have known of the preexisting disease of spine and nervous system. From May 1, 1893, he is shown to have been totally disabled, requiring regular aid and attendance, and he is without other income than his pension of \$12 under act of June 27, 1890. His general-law claim, filed in 1879, has never been adjudicated.

With the foregoing facts before it your committee sent the case back, and it was referred to the medical referee at the Pension Office, with the following request for his opinion:

Respectfully referred to the medical referee for his immediate personal consideration and opinion.

This man is shown to have entered the service sound, to have been treated for diarrhea, intermittent fever, and nervous headaches, and to have been discharged June 13, 1865, on certificate of disability because of "the effects of sunstroke, received on the march from Gettysburg July 7, 1863, rendering him unable to endure the heat of the sun and totally incapacitating him from marching. He is also subject to severe attacks of cephalalgia, of a neuralgic nature."

From 1866 to 1868 he is shown by medical evidence to have been laboring under pain in back, which the physician thought was due to lumbago. In 1869 and 1870 he is shown medically to have been in feeble health. His disease appeared to be a general impairment of his nervous system. From 1876 to 1882 the medical evidence shows that he was suffering from a severe spinal difficulty, consisting in a subacute inflammation of the meninges, spinal cord, and brain, which prevented him from performing manual labor. Examination in 1882 showed "neuralgia of the spinal muscles, and general debility."

Special reference is made to the record, of treatment in hospital, transfer to Veteran Reserve Corps, and the testimony of Dr. Martin as to soundness and correct

habits, and of Dr. E. Ferguson as to condition from 1866 to 1868; Dr. J. D. Schooley, in 1869 and 1870; Ethan Allen, M. D., 1876 to 1879; I. E. Bennett, M. D., 1878 and 1879; W. T. Kelly, M. D., 1881 and 1882, and examination in 1882, showing neuralgia of the spinal muscles, and general debility.

Please state your opinion as to whether there is probable connection between the sunstroke of record and disease of spine and nervous system.

This was referred to the medical referee, with a slip attached, of which the following is a copy:

Dr. J. F. RAUB, *Medical Referee*:

Please carefully consider the papers in this claim, including the slip hereto attached, and state whether in your opinion there is probable connection between the sunstroke of record and disease of spine and nervous system.

H. CLAY EVANS, *Commissioner*.

The medical referee returned the case to the Commissioner, with the following slip:

Hon. H. CLAY EVANS, *Commissioner of Pensions*:

Before answering the query as to whether there is probable connection between the sunstroke of record and disease of spine and nervous system it will be necessary to have an examination of soldier to determine whether any disease of spine and nervous system exists, and, if so, the nature and extent of same. Soldier has not heretofore been examined with this end in view, excepting a mere reference to spinal disease in certificate of examination made in 1882.

J. F. RAUB, *Medical Referee*.

The Commissioner then directed that an examination be ordered, which was done, and the following is quoted from the report:

He has disease of spine and nervous system. Is tender entire length of spine. Third, fourth, and fifth cervical and fourth and twelfth dorsal are very tender, but lumbar and sacral regions are so tender he will not bear scarce any pressure at all. The reflexes are very much impaired. There is a sense of numbness all over body. Lower limbs ache and pain for a while and then follow with a dead feeling of more or less duration. Has a marked sense of cushion under feet, and also a constriction around chest. Muscular drawings are frequent and painful. If he attempts to take a cup of water to drink, his hands draw shut, and he can not control them, can not hold anything. He is entirely helpless and requires the nearly constant attention of a second party.

Claimant's condition in my opinion is the result primarily from the alleged sunstroke, but aggravated and intensified by the fall when thrown from his buggy. He has general paresis resulting from the spinal disease.

It is my opinion that claimant is so disabled by disease of spine and nervous system and results as to require the frequent and periodical aid, though not constant attendance, of another person, and is entitled to \$50 per month.

Claimant has to be dressed and waited on as to calls of nature same as a child. No evidence of syphilis or vicious habits.

The medical referee was not satisfied with this, and returned the case again to the examining surgeon with the following instructions:

DOCTOR: You state in your certificate that claimant's condition is "aggravated and intensified by the fall when thrown from his buggy." Please state what "fall" you refer to, and give any information you may possess as to the time it occurred, the circumstances attending it, and the location and character of injury received at that time.

Why is use of catheter necessary in this case? Is the trouble paralytic or obstructive? Did you find any disability which, in your opinion, was due to alleged sunstroke in service? If so, please indicate what, and the pathological connection that decides you.

The case was returned with the following reply from the examining surgeon:

[First amendment.]

DOCTOR: The fall claimant stated occurred about five years ago, if I remember correctly; said he had been growing worse ever since it happened. Was thrown out of a buggy on his head and shoulders and doubled up by the fall. It strained him all over, but broke no bones. Now, as I take it, he was then suffering from the cerebrospinal irritation resulting from the sunstroke. Hence I stated his original spinal and nervous disease was aggravated and intensified by the fall, etc.

[Second amendment.]

The need of the catheter is because of the paresis, and not obstructive.

[Third.]

The pathological condition that decides me is the general paresis resulting, as I take it, from the disease of spine and nervous system, and this latter a result of the sunstroke.

Trusting you may get my meaning from this,
I am, fraternally,

G. A. SPARLING.

After considering this amended report of the examining surgeon, the following slip was prepared and signed by the medical referees:

It appears from the statements of the examining surgeon in this case, Dr. G. A. Sparling, that the claimant informed him that he had been thrown from a buggy about five years ago, which strained him all over but broke no bones. We should know more about this accident before we can intelligently determine whether it or the alleged sunstroke is responsible for soldier's deplorable condition. A special examiner would probably be able to get at the facts in the case, and I would respectfully suggest that a special examination be had.

J. F. RAUB.

It seems strange that the medical referee did not say that he would be unable to give an intelligent answer to the question of this committee until after the man died and an autopsy was made. Would he be able to give an intelligent answer then? We think not. The precise conditions existed before the fall that exist now. The fall aggravated the conditions, and in all human probability would not have occurred at all had not the soldier been suffering from the troubles of service origin.

This claimant is suffering from a \$50 disability of service origin, and no fair-minded, thinking person of even ordinary intelligence can doubt the fact.

The evidence is of the most satisfactory and conclusive character, the pathological connections complete, and the soldier's condition, both from a physical and financial standpoint, most pitiable.

Congressional action is the only remedy the soldier has if relief is to be given during his lifetime. The failure to adjudicate this claim the one way or the other will no longer be accepted as a justification for refusal to act on our part, as every opportunity has been given the proper authority to arrive at a conclusion.

The bill is reported back with the recommendation that it pass when amended as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Newton W. Cooper, late private Company H, Third Pennsylvania Heavy Artillery, and pay him a pension at the rate of fifty dollars per month in lieu of the pension he is now receiving.

Amend the title so as to read: "A bill granting an increase of pension to Newton W. Cooper."

PETER CASTLE.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

R E P O R T.

[To accompany H. R. 4488.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4488) granting an increase of pension to Peter Castle, have examined the same and the evidence, and respectfully report:

This bill as amended proposes to increase the pension of Peter Castle, of Curry, N. Y., late of Company D, Fourth New York Provisional Cavalry, from \$8 per month to the rate of \$24 per month.

Soldier served from September 3, 1861, to November 29, 1865, and was honorably discharged. The records show that he was sick for several months in 1862 and was sick again in 1865. He was treated in hospital in 1862 for typhoid fever, and the evidence shows that he also suffered from malarial fever. He filed a claim August 23, 1879, alleging typhoid fever and inflammation of lungs in service, which left him with disease of liver, loss of general health, with disease of kidneys and liver, chills and fever, and general debility. The claim was legally approved in September, 1884, for typhoid fever and results and intermittent fever and results, and was medically admitted for disease of kidneys, result of typhoid fever, and malarial poisoning, and he was pensioned therefor at \$4 per month from date of discharge and \$8 from July 16, 1881, which rate he is now receiving.

April 14, 1887, he filed a claim for increase and alleged asthma and deafness. Deafness was rejected on the ground of claimant's admission that it made its first appearance in 1872; asthma on the ground of no disability since date of filing claim.

In January, 1888, he filed a claim for increase, alleging disease of heart, stomach, and bowels as results of pensioned cause. The medical referee declined to accept them as such results and increase was rejected. In December, 1888, he claimed deafness as a result, and it was not so accepted by the medical referee. November 28, 1891, it was again alleged and again rejected.

In 1893 a reissue was made to pension claimant at the same rate (\$8) for malarial poisoning from February 17, 1892, and dropped for disease

of kidneys on the ground that that disability had ceased to exist, and claimant is now pensioned at the rate of \$8 per month under the general law for malarial poisoning.

By action of March 18, 1897, the medical referee refused to accept as results of pensioned disabilities disease of heart, kidneys, and throat, and deafness.

At the examination July 16, 1881, he was rated as totally disabled from disease of liver and its results.

February 7, 1883, he was rated four-eighths. The principal disability at that time appears to have been disease of kidneys, with some liver trouble.

March 17, 1886, he was rated one-half for heart disease and one-half for disease of liver.

Examination August 25, 1886, he was given no rating for any disability.

January 1, 1887, he was rated one-half for deafness and one-half for disease of liver, and no other rating was given.

March 28, 1888, rated eight-eighteenths for enlarged liver and spleen.

February 6, 1889, rated eight-eighteenths for deafness.

February 17, 1892, he was rated twelve-eighteenths for disease of heart and eight-eighteenths for liver and spleen and rectum.

August 5, 1896, rated four-eighteenths for disease of throat, twelve-eighteenths for disease of heart, six-eighteenths for typhoid fever and malaria, four-eighteenths for general debility, and six-thirtieths for deafness.

Evidence filed with this committee tends to show that from all causes combined—those originating in the service and those which have developed since—he is practically totally disabled.

He appears never to have filed a claim under the act of June 27, 1890, and it seems that he would be entitled to a pension of probably \$12 per month under that act.

This soldier is in the condition we might expect, after four full years' service in the Army, subject to all its dangers, hardships, and privations. In 1862, after a year's service, he was prostrated with typhoid fever, and in 1865 he had malarial fever. Like a good soldier he stood by the flag to the end of the war. Those who slept in the slush and mud and swamps, who were soaked with rain, overheated by day, chilled at night, poorly fed, and compelled to drink unwholesome water, know how frequently it was that typhoid and malarial fevers prostrated the best and strongest soldiers.

The Pension Office in 1884 pensioned this soldier for disease of kidneys—result of his typhoid fever and malarial poisoning. In 1892 it seems that the medical referee discovered that his kidney disease had ceased, but he was continued for malarial poisoning, something that affects every organ in the body more or less. In 1897 the soldier's system was full of disease—disease of heart, kidneys (just what was dropped in 1892), throat, and ears, causing deafness.

But now the medical referee refuses to accept kidney disease as the result of the typhoid fever and malarial poisoning. Why not? The Bureau did it once, and only discontinued the pension allowed for that disability because in 1892 his kidneys appeared sound. The truth is he had diseased kidneys, the result of army service, all the time. The truth is that typhoid fever and malarial poisoning will, and frequently do, produce every disease and disability from which this soldier now suffers.

No other cause for the soldier's condition is alleged or shown. We have here cause and effect. Only one cause known and the condition

now shown is the probable result of that cause. Shall we say the case is not made out?

Your committee is of the opinion that its plain duty requires it to grant an increase of this soldier's pension. The bill is therefore reported back with the recommendation that it pass when amended as follows:

In lines 6 and 7 strike out the words "on account of disease of the heart and deafness."

In line 7, after "of," insert "twenty-four."

Amend the title as indicated.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

Your petitioner, Peter Castle, whose post-office address is Curry, in the county of Sullivan and State of New York, respectfully represents that he served as a soldier in the late war; was enrolled on the 3d day of September, 1861, as a corporal in Company D, First Regiment Mounted Rifles, New York Volunteers. He reenlisted on the 1st day of January, 1864, in said company and regiment. The said regiment was consolidated into the Fourth New York Provisional Cavalry Volunteers, June, 1865. He was discharged on the 29th day of November, 1865. During said service he contracted typhoid and malarial fevers. On the 24th day of September, 1884, he was allowed a pension of \$4 per month to commence on the 30th day of November, 1865, and \$8 per month from the 16th day of July, 1881, being for disease of kidneys, result of typhoid fever and malarial poisoning. Certificate No. 277029.

On the 4th day of October, 1893, disease of kidneys was dropped, and a reissue made for malarial poisoning at the same rate—\$8 per month. Disease of kidneys did exist on said date and it continues to the present time. He is also affected with disease of heart and deafness, of which will not be accepted by the Commissioner of Pensions as due to pensioned—cause, to-wit, malarial poisoning.

He humbly prays that the Hon. B. B. Odell, jr., will examine the evidence on file in the Pension Bureau, together with that submitted for your honorable consideration, and to frame a bill to cover disease of heart and kidneys, according to the reports of the boards of surgeons and private physicians by whom he has been examined.

Your humble servant,

PETER CASTLE.

NOVEMBER 26, 1897.

STATE OF NEW YORK, *County of Sullivan, ss:*

In the pension claim No. 277029, of Peter Castle, late of Company D, Fourth New York Provost Cavalry Volunteers, personally came before me, a notary public in and for the aforesaid county and State, J. A. Munson, M. D., a citizen of Woodbourne, whose post-office address is Woodbourne, Sullivan County, N. Y., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about fifteen years, and that I have this day examined said soldier and I find him suffering from malarial poisoning, disease of the kidneys and heart, deafness. Said soldier had had typhoid fever while in the service, and that this fact was not known to me at the time I made the former affidavit. I do not consider said soldier to be in a fit condition to perform any form of manual labor. I consider him totally disabled from all forms of manual labor by reason of these disabilities.

To the best of my knowledge and belief all these disabilities came from the typhoid fever which said soldier had while in the service. They are the direct result of the fever.

He further declares that he has been a practitioner of medicine for fifteen years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

Dr. J. A. MUNSON.

Sworn to and subscribed before me this 29th day of November, A. D. 1897, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the above declaration, etc., were fully made known to him before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

BENJAMIN VERNCOY, *Notary Public.*

STATE OF NEW YORK, *County of Sullivan, ss:*

In the pension claim No. 277029 of Peter Castle, Company D, Fourth New York, late of Province of Canada, personally came before me, a notary public in and for the aforesaid county and State, W. H. H. Hoar, M. D., a citizen of Grahamsville, whose post-office address is Grahamsville, Sullivan County, N. Y., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about seventeen years, and that I have this day made a personal examination of said Peter Castle and I find him suffering with disease of kidneys and heart; also deafness, which I believe is the result of malarial poisoning, which he had while in the service, and from the effects of typhoid fever. I do not believe said claimant able to perform manual labor by cause of results of said disease. I further declare that I do not believe said disabilities were caused by any vicious habits of his own.

He further declares that he has been a practitioner of medicine for eighteen years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

W. H. H. HOAR, M. D.

Sworn to and subscribed before me this 30th day of November, A. D. 1897, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the above declaration, etc., were fully made known to him before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

G. F. CURREY, *Notary Public.*

STATE OF NEW YORK, *County of Sullivan, ss:*

On this 2d day of December, A. D. 1897, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, James Gorton, aged 72 years, a resident of Grahamsville, in the county of Sullivan and State of New York, whose post-office address is Grahamsville, Sullivan County, N. Y., and who, being duly sworn, declares as follows: I have known Peter Castle for upwards of forty years; have lived most of the time within 3 miles of him; I know that he has suffered with disabilities from disease since he returned from the service; I am not able to swear to the nature of his disabilities; it requires medical science to do that. To the best of my knowledge and belief his disabilities resulted from the fever he had while in the service of the late war. Have not known him to have any acute disease since he came from the service.

Personally appeared James Gorton, residing at Grahamsville, Sullivan County, N. Y., a person whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, says: I have no interest in the prosecution of this claim.

JAMES J. GORTON.

Sworn to and subscribed before me this 2d day of December, A. D. 1897, and I hereby certify that the contents of the above declaration, etc., were fully made known and explained to the witness before swearing, including the word November erased, and the word December added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

G. F. CURREY, *Notary Public.*

STATE OF NEW YORK, *County of Sullivan, ss:*

On this — day of —, A. D. 189—, personally appeared before me, a justice of the peace in and for the aforesaid county, duly authorized to administer oaths, John Richard, a resident of Grahamsville, in the county of Sullivan and State of New York, whose post-office address is Grahamsville, Sullivan County, N. Y., and who, being duly sworn, declares as follows: I have known Peter Castle for twenty-four years. I further state that he has been disabled by disease since I have been acquainted with him. To the best of my knowledge and belief his disabilities are due to fevers had while he was in the service of the late war.

Personally appeared John Richard, residing at Grahamsville, Sullivan County, N. Y., a person whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, says: I have no interest in the prosecution of this claim.

JOHN RICHARD.

Sworn to and subscribed before me, this 2d day of December, A. D. 1897, and I hereby certify that the contents of the above declaration, etc., were fully made known

and explained to the applicant and witnesses before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

M. INGRAHAM, *Justice of the Peace.*

STATE OF NEW YORK, *County of Sullivan, ss:*

On this 27th day of November, A. D. 1897, personally appeared before me, a justice of the peace in and for the aforesaid county, duly authorized to administer oaths, Theron Porter, aged 44 years, a resident of Grahamsville, in the county of Sullivan and State of New York, whose post-office address is Grahamsville, Sullivan County, N. Y., and who, being duly sworn, declares as follows: I have known Peter Castle, a soldier of Company D, First New York Mounted Rifles, since he returned from the late war in the year of 1865. I know that he was disabled by disability contracted in the late war, and further, to the best of my knowledge and belief, his disabilities resulted from fevers contracted in the army.

Personally appeared T. O. Porter, residing at Grahamsville, N. Y., a person whom I certify to be respectable and entitled to credit, signs his name to the foregoing declaration, and says that I have no interest in the prosecution of this claim.

THERON O. PORTER.

Sworn to and subscribed before me this 27th day of November, A. D. 1897, and I hereby certify that the contents of the above declaration, etc., were fully made known and explained to the witness before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

M. INGRAHAM, *Justice of the Peace.*

STATE OF NEW YORK, *County of Sullivan, ss:*

On this 30th day of November, A. D. 1897, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, George O. Booth, aged 53 years, a resident of Grahamsville, in the county of Sullivan and State of New York, whose post-office address is Grahamsville, and who, being duly sworn, declares as follows: I have known the claimant, Peter Castle, for upward of forty years. I have worked in the hayfield with him prior to 1861. I considered him at that time an able-bodied man. I have been intimately acquainted with him since he returned from the service; have heard him complain of lame back and also of heart trouble, and to the best of my knowledge and belief all of his present troubles are occasioned or resulted from fevers contracted while in the service. I have not known of him suffering from any acute diseases since he came from the service.

GEORGE O. BOOTH.

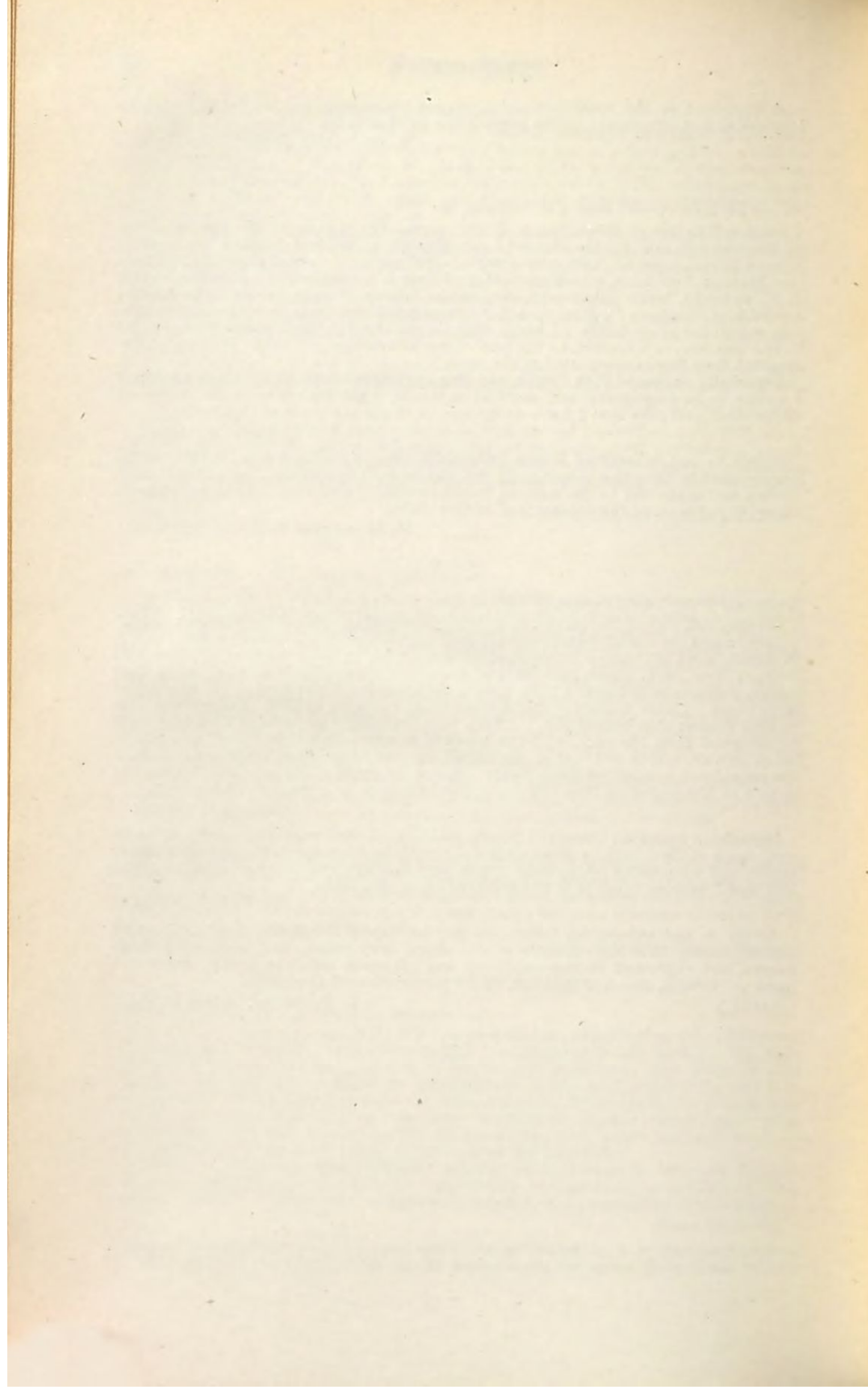
Personally appeared George O. Booth, residing at Grahamsville, county of Sullivan, State of New York, a person whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, says this affidavit is my own handwriting and that I have no interest in the prosecution of this claim.

GEORGE O. BOOTH.

Sworn to and subscribed before me this 1st day of December, A. D. 1897, and I hereby certify that the contents of the above declaration, etc., were fully made known and explained to the applicant and witnesses before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

G. C. GRANT, *Notary Public.*



HENRY K. OPP.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6411.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6411) granting an increase of pension to Henry K. Opp, have considered the same and all the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$6 to \$12 per month the pension of Henry K. Opp, of Wellsville, Allegany County, N. Y.

Henry K. Opp served as purser's clerk on the U. S. S. *Pocahontas* from March 13, 1862, to October 9, 1862, when he resigned; and as acting assistant paymaster, United States Navy, from February 5, 1864, to December 26, 1865.

The records show him to have been treated during his last service for conjunctivitis and hernia right side, scrotal.

The following is from the record:

Patient says it occurred since enlistment. There is no other evidence that it originated in line of duty. Some months ago I recommended truss, but he did not comply with instructions and is now unfit for duty.

An abstract of exemptions granted to drafted persons by the board of enrollment in the twenty-fifth district, State of New York, during the week ending August 15, 1863, shows that Henry K. Opp was exempted on account of hernia. There has been an effort made to show that the exemption from draft was based on an erroneous diagnosis, but he accepted the exemption on the ground stated; he claimed the infirmity and accepted its benefits. He ought to be estopped from saying it did not exist then.

It appears from medical evidence filed in the Pension Office that claimant had a "retained" testicle, which did not descend into the scrotum, and which might very readily be mistaken for hernia in its beginning. Unless such a mistake was made, the hernia must have existed prior to enlistment. There is, however, very strong evidence as to soundness and freedom from hernia when claimant entered the Navy in 1864.

His brother, who slept with him and was with him almost constantly during the period intervening between his two services, swears that he had every opportunity for knowing the existence of hernia had it existed at that time, and from personal knowledge he knows and is certain that claimant did not have hernia at that time.

M. J. Bunnell, of Dansville, N. Y., testifies that he understands that claimant has or had a retained testicle, and he believes that was what was taken for a hernia when he was exempted from the draft in 1863.

Israel Bushong, M. D., late acting assistant surgeon, United States Navy, testifies that in June, 1864, claimant came to him and complained of having a pain in his abdomen, and that he made a personal examination of him, examining his abdomen and groins, and knows that claimant was then free from rupture or hernia in the right or left groin.

There is other evidence just as positive, so far as they could tell, of those who went in bathing with him and so saw him in a nude state.

A claim was filed July 1, 1895, under the act of June 27, 1890, based on hernia of right side, rheumatism, disease of heart, and neuralgia.

The claim was admitted December 19, 1895, and he was pensioned at \$6 from date of filing for complete right inguinal hernia. No other ratable disability, and he is now drawing said pension of \$6.

The Wellsville, N. Y., board examined him November 6, 1895, and rated him twelve-eighteenths for hernia, seventeen-eighteenths for rheumatism, and seventeen-eighteenths for disease of heart, and concludes with the statement that he is so disabled by hernia, rheumatism, and disease of heart as to be incapacitated for the performance of any manual labor.

Examining board at Hornellsville, N. Y., March 11, 1896, rates ten-eighteenths for hernia and six-eighteenths for rheumatism. At the time of examination claimant stated that he was just out from an attack of rheumatism lasting seven weeks, and the board found stiffening of great toes on both feet, and joints enlarged to quite an extent.

This committee is unable to accept hernia as due to service and line of duty. It is shown that the disabilities are not due to vicious habits. Claimant is 58 years of age.

The evidence in the case shows the claimant to be so disabled that he can not perform manual labor, and an increase from \$6 to \$12 per month is therefore fully justified and should have been granted at the Bureau.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 7 strike out the word "twenty-five" and insert in lieu thereof the word "twelve."

THEODORE C. GREENHILL.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Mississippi, from the Committee on War Claims, submitted the following

REPORT.

[To accompany House Res. No. 265.]

The Committee on War Claims, to whom was referred the bill (H. R. 8522) for the relief of Theodore C. Greenhill, of Franklin County, Ala., report as follows:

The claim for stores and supplies was referred by the House Committee on War Claims of a previous Congress to the Court of Claims for determination of facts under the act of Congress of March 3, 1883, known as the "Bowman act."

Much testimony was taken and submitted to the court, pursuant to its rules, and the preliminary question of loyalty was found in favor of the claimant, but the court did not pass upon the questions as to the amounts and values of the stores and supplies taken and furnished, as it held that the single action of the House committee in referring said claims was not sufficient to confer jurisdiction upon it to hear and determine those questions under said act of March 3, 1883, the claims being therefore dismissed for want of jurisdiction.

Your committee have fully considered the facts of this claim, and, upon this consideration and because the Court of Claims have found loyalty proven in said case, and it being manifest that all the parties have proceeded in entire good faith before the Court of Claims and at considerable expense in taking testimony, they recommend the passage of the resolution.

HEIRS OF MRS. ANN H. SHALER.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAVISON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 5774.]

The Committee on War Claims, to whom was referred the bill (H. R. 5774) for the relief of the heirs of Mrs. Ann H. Shaler, of Campbell County, Ky., have carefully examined the same and the accompanying papers and beg leave to respectfully report as follows:

This bill is to compensate the heirs of Mrs. Ann H. Shaler, of Campbell County, Ky., for the use and occupation of certain land owned by her and situated immediately south of Newport, Ky., by the Union Army during the war of the rebellion.

From the affidavits filed in the case, all of which are made by persons of high standing and eminent respectability, and who were thoroughly informed as to the facts to which they testified, it appears that Mrs. Ann H. Shaler (who died April 13, 1891) was the owner of a large and valuable tract of land situated about 2 miles south of Newport, Ky., which land was largely used for agricultural purposes and the raising of vineyards. For the defense of Cincinnati, Newport, and Covington from the raid of the Confederate forces under Generals Bragg and Smith, it became necessary that the Union forces should occupy a large portion of this land with forts, rifle pits, military quarters, military roads, etc., in order that they might have full command of the two pikes leading into Newport from the interior of the State of Kentucky.

This occupation was duly had. Two large forts and many rifle pits were erected on said land; the timber on the land was cut and used; military barracks, officers and quartermaster's quarters were built, and military roads constructed across the land in every direction for the use of the Army. The amount of the land actually occupied by the forts McLean and Shaler, rifle pits, and barracks, approximated 25 acres, and with these forts and their approaches, rifle pits and embankments, breastworks and quarters, military roads, etc., the entire tract of 230 acres was practically completely occupied.

It appears from the testimony of each of the affiants that the damage occasioned by said occupation was great, much of it irreparable, and

all of it continuous unto this day. The property was cut up in every conceivable way for the erection of the forts and rifle pits and approaches. Military roads intersected it in every direction, and it was rendered unfit for the uses to which it had formerly been put. It appears from the appraisement made in 1863, that up to that time at least \$10,000 of damage had been sustained, and the additional loss and injury consequent thereupon have continued unto this day.

It appears that Mrs. Shaler inherited this land in fee from her father. Her husband, Dr. N. B. Shaler, was one of the strongest and most uncompromising Union men of northern Kentucky, and was surgeon of Newport barracks at the time of the occupation of this land. His son, Prof. N. S. Shaler, of Harvard University, commanded a battery in the Union Army, which had been raised and equipped by his father's efforts. The extreme loyalty of the family is attested by every affiant, and Dr. Shaler's loyalty and the great value of his services to the cause of the Union are made the subject of hearty commendation by Gen. Green Clay Smith in his affidavit, and by numerous other affiants.

From all the facts in the case it appears beyond contradiction that the family of Dr. Shaler were loyal, devoted, enthusiastic, and self-sacrificing in the cause of the Union; that they aided it in every way in their power, and their means and efforts were enlisted in every way in its service.

It further appears beyond contradiction that great damage was occasioned to the aforesaid land of Mrs. Shaler by its use and occupation by the Union Army during the war, and that in 1863 that damage had amounted to at least \$10,000, and has been continuous since that time.

Your committee, after fully and carefully considering all the facts in this case, feel that the claim of the heirs of Mrs. Shaler is a most just and meritorious one, and that in rendering them the compensation provided by the bill for the loss and damage sustained by reason of the occupation and use of this land by the Union Army the Government is simply doing an act of plain justice.

Your committee would therefore recommend that the bill do pass, with the following amendment:

In line 5 strike out "twenty" and insert in lieu thereof "ten."

ANNA R. KIRSHNER, ADMINISTRATRIX.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MESICK, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 2495.]

The Committee on War Claims, to whom was referred the bill (H. R. 2495) for the relief of Anna R. Kirshner, administratrix of the estate of Col. Phillip Kirshner, submit the following report:

Col. Phillip Kirshner responded to the President's proclamation of April 15, 1861, and enlisted and became captain of Company E, Sixteenth Ohio (three months) Infantry, on April 23, 1861, and served until August 18, 1861, on which latter date his company was mustered out of service. The army records further show that he reenlisted in the service October 13, 1861, as major of the Sixteenth Ohio Infantry Volunteers, and served in the Army until October 31, 1864, receiving the rank of colonel for distinguished service.

It also appears from the army records that the band of Company E, Sixteenth Ohio Infantry, was enlisted April 23, 1861, at Springfield, Ohio, and continued in service until August 18, 1861.

This claim is for money paid by Col. Phillip Kirshner upon a judgment obtained against him for services of the band rendered to the Sixteenth Ohio Infantry in the service of the Government, which he, in connection with other commissioned officers, engaged and became responsible for their services, at a price exceeding that which was afterwards allowed by the Government.

It appears that on July 22, 1861, an act was passed by Congress authorizing the engagement of bands and fixing the compensation for such services.

By an act approved July 31, 1861, the Secretary of War was authorized and directed to refund, out of any money in the Treasury not otherwise appropriated, to the volunteers called out by the President's proclamation of the 15th of April, 1861, such amounts of money as may have been expended by said volunteers in the employment of regimental or company bands during the period of their service under said proclamation.

It would seem from the acts above referred to that commissioned officers were authorized to engage bands, and the funds advanced by them refunded by the act above mentioned.

Colonel Kirshner during his lifetime submitted in support of his claim certified copies of the court proceedings, showing the judgment against him of the amount stated in the bill, together with an affidavit of the leader of the band setting forth the terms of the contract and the reasons for the nonpayment of the full amount thereof by the Government.

It also appears, to the satisfaction of the committee, that the reason for the long delay in the presentation of this claim arose from the fact that Colonel Kirshner, until within a few years, has had ample private means, and did not intend to call upon the Government until forced by adverse circumstances and blindness to ask for this relief. Your committee recommend the passage of the bill.



HAMILTON M. SAILORS.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OVERSTREET, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 7690.]

The Committee on War Claims, to whom was referred the bill (H. R. 7690) for the relief of Hamilton M. Sailors, submit the following report:
The bill, to quote its language, is as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Hamilton M. Sailors, Company K, One hundred and first Indiana Volunteers, the difference of pay between that of a private and a second lieutenant from May twenty-sixth, eighteen hundred and sixty-three, to October tenth, eighteen hundred and sixty-three, he having performed the duties of the office under proper appointment and assignment.

The official records show that Hamilton M. Sailors joined for duty and was enrolled private of Company K, One hundred and first Regiment Indiana Volunteers, at Wabash, on the 16th day of August, 1862, and that he was mustered into the military service of the United States at Indianapolis on the 12th day of September, 1862, for the term of three years; mustered out June 24, 1865; that on the 26th day of May, 1863, he was promoted in the usual way to be second lieutenant of the said company, and immediately entered upon the discharge of the duties of that position by order of his commanding officers, and served until October 10, 1863.

Neither the claimant nor his commanding officers learned of the order of June 18, 1863, forbidding the mustering of second lieutenants where the company was below the minimum in numbers, until October 10 following, during all of which time the claimant had, in good faith, been performing all the duties of the position, and he never drew or received any pay whatever except as a private.

He performed the duties of second lieutenant in good faith and upon the orders of his superior officers four months and fourteen days, just as many others did under similar circumstances, whose right to pay in the higher grade was not disputed. The only adverse answer to his right to pay comes of the act of June 18, 1863, forbidding the mustering

of officers of this class into companies below the minimum. This company was below the minimum, but the enactment of this law referred to was unknown to claimant and his superior officers by reason of their being at the front, out of the usual reach of news, and they could not be restrained by an act of which they had no knowledge.

Your committee hold that, having obtained the benefit of Sailor's services, the Government ought not to set up a technical plea in bar of its obligation to make compensation therefor, and your committee are of opinion that payment should be made Mr. Sailors and recommend the passage of this bill.



HEIRS OF DAVID B. SANDERS.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OVERSTREET, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 7545.]

The Committee on War Claims, to whom was referred the bill (H. R. 7545) for the relief of the heirs of David B. Sanders, deceased, submit the following report:

This is a claim for quartermaster stores furnished the Army of the United States during the late war. Claim stated at \$5,000.

Claimant filed his claim in the office of the Quartermaster-General for adjudication under the act of July 4, 1864. The claim was given to Special Agent J. C. Dougherty for examination and report, and on December 26, 1874, he reported to the Quartermaster-General that the decedent's loyalty was established, and recommended payment for the following stores:

For 40 tons of hay, at \$15	\$600.00
For 2 tons of Hungarian grass, at \$15.....	30.00
For 2,500 binds fodder.....	37.50
For 600 cords of wood, at \$2.50.....	1,500.00
For 8,000 feet of lumber, at \$20.....	160.00
For 55,000 feet of lumber, at \$10.....	550.00
For 6,000 brick, at \$8.....	480.00

Amounting to..... 3,357.50

Col. James A. Ekin, deputy quartermaster-general, transmitted the claim to the Quartermaster-General with a recommendation that the claim be suspended, and no action has been taken on said claim.

Your committee are satisfied that the claimant was a loyal citizen, and that stores of the value of \$3,357.50 were taken and used by the Army of the United States, and report back the bill and recommend its passage.

A. T. SANDS.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAVISON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany House Res. No. 266.]

The Committee on War Claims, to whom was referred the bill (H. R. 646) for the relief of A. T. Sands, submit the following report:

This is a claim for stores and supplies furnished the Army of the United States during the late war by A. T. Sands, of Christian County, Ky. Claim stated at \$6,530.

Claimant alleges that on or about September 10, 1863, at Nashville, Tenn., he entered into a contract with Colonel Minty, commanding the Fourth Regiment Michigan Cavalry Volunteers, to furnish for the use of the United States certain quartermaster stores and subsistence supplies; that pursuant to said contract he did furnish said Colonel Minty with stores and supplies of the value aforesaid.

The claim was not presented to the Quartermaster-General, as required by the act of July 4, 1864. The claimant prepared his claim for submission to the Quartermaster-General, and believed that his then attorney did present his said account, but is now advised that no such claim appears of record.

It seems to your committee that an investigation by the Court of Claims is necessary before intelligent action can be had upon the case, and report herewith a resolution referring the claim to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act, and recommend its passage.

ESTATE OF A. H. HERR.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. OTJEN, from the Committee on War Claims, submitted the following

REPORT.

[To accompany S. 546.]

The Committee on War Claims, to whom was referred the bill (S. 546) for the relief of the estate of A. H. Herr, deceased, submit the following report:

The report of Mr. Stewart, made to the Senate, first session Fifty-fifth Congress, is so full and conclusive that your committee have adopted it as a fair statement of the grounds for relief. He states:

The Committee on Claims, to whom was referred the bill (S. 546) for the relief of the estate of A. H. Herr, deceased, late of the District of Columbia, having had the same under consideration, beg to submit the following report:

A similar bill has been before this committee at different Congresses. It was reported favorably at the first session of the Fifty-second Congress, was accompanied by Senate Report No. 95, and passed the Senate at that session. Your committee readopt the report made at that time and report back the bill without amendment and recommend its passage.

Senate Report No. 95, first session Fifty-second Congress, is as follows:

The Committee on Claims, to whom was referred the bill (S. 657) for the relief of the estate of A. H. Herr, have considered the same and respectfully report:

Your committee adopt the report submitted by them during the first session of the Fifty-first Congress, and recommend that the bill do pass. This bill passed the Senate last Congress.

The adopted report is as follows:

"This claim has been before Congress since the first session of the Forty-second Congress and has received favorable consideration in both the House and Senate.

"The report of Mr. Rowell, made to the House of Representatives at the first session of the Forty-eighth Congress, is so full and conclusive that your committee have adopted it as a fair statement of the grounds for relief. He states:

"The claim is for the use and occupation of Herrs Island, near Harpers Ferry, W. Va., by Federal troops from February, 1862, to February, 1866.

"The property in question 'was a very extensive and valuable estate, embracing 12 acres of land, 32 dwelling houses, a large four-story cotton factory building, a large iron foundry, sawmill, and many outbuildings,' and was all occupied at various times during the period named and under control of acting quartermasters in the United States Army.

"Mr. Herr, the owner of the property, was a loyal citizen, who for his loyalty suffered imprisonment at the hands of the rebels, and many other vexations, besides great destruction of property.

"February 28, 1866, Maj. Gen. W. S. Hancock made an order convening a board of officers to examine and report upon the condition of property in the department lately used by the Government, under the direction of the Quartermaster's Department, with a view of determining what would be required to put it in the same condition as when first occupied by the Government.

"In accordance with such order, the board convened and proceeded to examine the various property covered by the order, and on July 3, 1866, entered upon a critical examination of the property involved in this case, and of the evidence of its occupation, and its rental value, and reported in detail each building occupied, the time of its occupancy, and the rental value. The result of this examination was a report of a total rent of \$17,288.53.

"This report was not approved by the Quartermaster-General, but the claim was by him referred to General Blunt, chief quartermaster, Department of the Potomac, who, on December 27, 1866, made return of his conclusions, in which he stated that he had made personal examination of the premises, accompanied by his agent, and was satisfied that the buildings were occupied for military purposes for the whole of the time alleged in the claim. He expresses the opinion that the occupation tended to preserve the buildings from being destroyed by the rebels, and also says that the works not being in operation would prevent the owner from deriving any material benefit from it. Yet, he says the Government derived material benefit from its use, and he carefully readjusts the estimates of the board of officers and recommends the allowance of \$15,294.58.

"Upon receipt of this report Acting Quartermaster-General Rucker disallowed \$8,408.33 of the claim and recommended the payment of \$6,886.25.

"This reduction was made upon the statement in the report of General Blunt, that the occupancy of the property by the Army had the effect to protect it from destruction by the rebels, and the assumption that the works were not in operation, and therefore were of little use to their owner.

"This finding was approved by Quartermaster-General Meigs, but the claimant refused to accept the amount.

"Subsequently the whole matter was referred to Deputy Quartermaster-General Ekin, who, on June 7, 1869, made an elaborate report upon the findings of the board of officers, the report of General Blunt, and the action of the Quartermaster-General on the same. He also considered additional evidence, which showed that the supposed facts in regard to the operation of this property by the owner, as reported by General Blunt, did not in reality exist, and that the condition of the property, with reference to its use by the owner, had been misunderstood.

"The report also combats the idea that its occupancy by the Union troops tended to preserve it from destruction.

"After reviewing the history of the case and reciting the evidence upon which his findings were based, the report concludes with recommendation of an allowance of \$15,000.

"This report is returned by the Quartermaster-General to General Ekin, with the suggestion that it is like another case cited, whereupon General Ekin makes response as follows:

"The ruling in the Murfreesboro decision could be made applicable in this case; but in view of the fact that it has been the custom of this Department to pay rent for property at Harpers Ferry which was occupied by the United States during the war, and in the absence of any law or order prohibiting its payment, I can not perceive any just reason why Mr. Herr should not be paid such rent as may be found to be due him."

"March 16, 1874, the claim was taken before the Secretary of War for review, who, upon an examination of all the papers in the case, approved the finding of the board of officers convened by General Hancock, but on reference to the accounting officers the Third Auditor reported adversely, and the claim was disallowed by the Comptroller April 7, 1874—

"On the ground that the prohibitory act of February 19, 1867, was not repealed by the joint resolution of July 28, 1866, extending the benefit of the act of July 4, 1864, to the counties of Jefferson and Berkeley, W. Va."

"On reargument this decision was reaffirmed May 26, 1874.

"The case was finally reviewed by the Comptroller July 23, 1875. In that review he says:

"There is but one question now to be determined in the case. The claimant's loyalty and ownership, the occupancy of the property by the Federal forces, the proper administrative action in the War Department, and perhaps the amount of compensation to be allowed are all sufficiently shown."

"After reciting the various acts of Congress bearing upon the right to adjust and pay this claim, the report says:

"It (the act of 1867) expressly prohibits the settlement of certain claims originating in a State, or part of a State, described in the proclamation of July 1, 1862.

* * * Jefferson County, Va., is among the counties described in that proclamation, and the prohibition, it seems to me, is as positive as if the act had repeated the words of the proclamation.'

"And so this claim was rejected, not because it ought not to be paid, but because the Department before which it was pending was expressly prohibited by act of Congress from settling claims of this character.

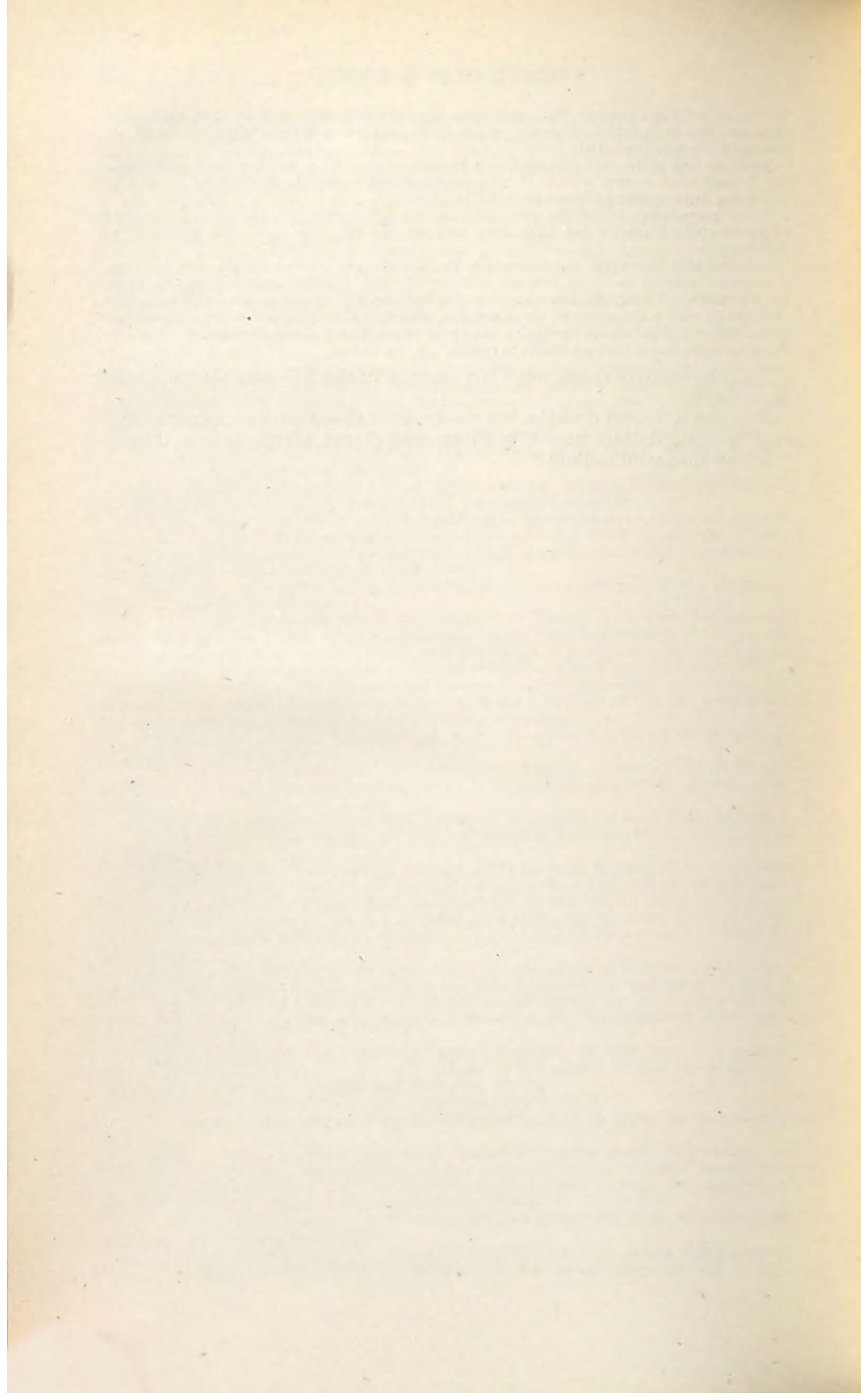
"The committee are of the opinion that the allowance of this claim is an act of justice which ought not longer be delayed for want of a tribunal in which to enforce it.

"Claimant's property was occupied by the United States troops without any express agreement as to the amount of compensation. Its use was of great value to the Government and effected a saving of much more than the amount claimed. Its occupancy was a necessity at the time, the officers taking possession, and the claimants both supposed that reasonable rent was to be paid. Large damage was done to the property, for which no claim is made."

Your committee recommend the passage of the bill with the following amendment:

In lines 6, 7, and 8 strike out "seventeen thousand two hundred and eighty-eight dollars and fifty-three cents," and insert in lieu thereof "fifteen thousand dollars."





CITIZENS OF BRENHAM, TEX.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany House Res. No. 267.]

The Committee on War Claims, to whom was referred the bill (H. R. 7980) for the relief of citizens of Brenham, Washington County, Tex., submit the following report:

It is alleged that on the night of the 7th of September, 1866, United States troops commanded by Maj. G. W. Smith burned a portion of the town of Brenham, Washington County, Tex., in which property was destroyed belonging to certain citizens thereof and of the value of \$131,026, which sum it is proposed by said bill to appropriate for the benefit of the sufferers.

The claims are all of the same character. All the property of each claimant is alleged to have been destroyed from the same cause, at the same time, and under like circumstances. The property destroyed consisted of houses and their contents.

That a great misfortune fell upon certain of the inhabitants of Brenham there can be no doubt, and for which they were not responsible. The circumstances under which the property was destroyed is stated in House Ex. Doc. No. 237, first session, Forty-third Congress, a copy of which is hereto attached, to be printed as an appendix to the report.

Your committee have considered the claims in every aspect in which they have been presented and have arrived at a conclusion in relation to the same.

The conclusion arrived at by your committee is that the claims be referred to the Court of Claims for a finding of facts under the terms of section 14 of the act approved March 3, 1887, and generally known as the "Tucker Act," and report herewith a resolution to that effect and recommend its passage.

[House Ex. Doc. No. 237, Forty-third Congress, first session.]

WAR DEPARTMENT, *February 25, 1871.*

The Secretary of War has the honor to submit to the House of Representatives, for the further information of the Committee on Claims, as requested by said committee on the 13th of January last, a certified copy of the report of a committee of the

legislature of Texas upon the burning of the town of Brenham, Tex., by United States soldiers, as alleged, in the year 1866.

WM. W. BELKNAP, *Secretary of War.*

DEPARTMENT OF STATE, *Austin, Tex.*

I, James P. Newcomb, secretary of state for the State of Texas, do hereby certify that the annexed report is a true copy of the report of and evidence taken by the joint committee appointed on the part of the senate and house of representatives of the legislature of the State of Texas, A. D. 1866, in relation to the burning of a portion of the town of Brenham, Washington County, Texas.

Witness my hand and official seal, at office in the city of Austin, this February 10, A. D. 1871.

[SEAL.]

JAMES P. NEWCOMB, *Secretary of State.*

REPORT OF JOINT SELECT COMMITTEE TO INVESTIGATE THE FACTS IN REGARD TO
THE BURNING OF BRENHAM.

COMMITTEE ROOM, *September 28, 1866.*

To the Honorable the President of the Senate and the Speaker of the House of Representatives of the State of Texas:

The undersigned, who were appointed a joint committee on the part of the senate and of the house of representatives "to proceed to the town of Brenham, in Washington County, and to make a full and thorough investigation into the facts and circumstances connected with the burning of a portion of said town, and to report the result of their investigation, with their recommendation as to what action should be taken in the premises," beg leave to report as follows:

On our way from Austin we learned at La Grange that Colonel E. C. Mason, who had been engaged in making an investigation of the same, under the orders of the military authorities, had concluded his examination and left Brenham for Galveston. We immediately telegraphed him from La Grange on September 16, apprising him of our appointment, and that we would begin our investigation at the courthouse in Brenham on Tuesday the 18th instant at 9 o'clock a. m., and respectfully requested him to be present in person, or to delegate some other suitable officer to be present. (See copy of telegram, marked A.)

To this dispatch we received no telegraphic answer; but on the 19th instant we received through Captain and Brevet Major G. W. Smith, commanding post of Brenham, a communication from Colonel Mason, dated September 17, in which, acknowledging his thanks for our invitation to him to cooperate with us, and expressing his regret that he did not have our assistance in making his own inquiries, he states that he has made a conscientious investigation of the whole affair, and expresses the hope that the result of our inquiries may coincide with his own. (See Mason's letters, marked B.)

We reached Brenham on the morning of Monday the 17th instant, and during the afternoon of that day we visited the camp of Major Smith, and notified him of our commission, and of the time and place at which the investigation would begin, and requested him to be present, and to cooperate with us in the endeavor to elicit all the facts. To which Major Smith, after asking if Colonel Mason's investigation and report were not satisfactory, replied that he did not feel at liberty to take any part in the examination.

On Tuesday morning, the 18th instant, having organized the commission, we dispatched the deputy sheriff of Washington County with a writ of *habeas corpus ad testificandum* directed to Major Smith, and commanding him to bring before us as witnesses Sergeants Howard and Skinner and Privates Turner, Murphy, and Mackey, belonging to the company of United States soldiers under his command. The sheriff was instructed to demand these men of Major Smith, but to make no attempt to arrest them by force. The sheriff returned the writ executed on Major Smith, who verbally declined to obey it. (See writ of *habeas corpus ad testificandum*).

Accompanying this writ we addressed a letter to Major Smith, stating that it was important to a full and fair investigation that those men should be examined, and assuring him that they should be in no wise molested. We also requested him to be present at their examination. (Letter to Major Smith, marked E.)

Major Smith replied that he had received no orders apprising him of any change in the military status of the country, and that he did not feel at liberty to turn over the

men of his command without orders from the district commander. (Letter from Major Smith, marked F.)

We replied that the object of the process was to obtain the testimony of the parties named, and not to arrest them; and, if permitted to appear before the commission, they should be protected and permitted immediately to return unmolested to their command. (Letter to Major Smith, marked G.)

Major Smith answered that he had been informed by the district commander that it was not necessary for him to appear, as an investigation had already been had. (Letter from Major Smith, marked H.)

We then telegraphed Colonel Mason, again requesting his presence, and that he would order Major Smith to send before the commission such of his men as we might wish to examine. (Copy of dispatch, marked I.)

Colonel Mason telegraphed in reply that he was about leaving for New Orleans and could not attend, and that he had no authority to give Major Smith the orders we desired. (Copy of dispatch, marked J.)

It appears from a written statement furnished us by Major Smith on Thursday, 20th instant, that during the night of the 17th, which followed our arrival in Brenham, and our first visit to his camp, four privates belonging to his command, to wit, Murphy, Mackey, Murray, and Riley, had deserted, and that Sergeant Howard was absent with a detail in pursuit of them. (See statement of deserters and absentees, marked C.)

The committee then proceeded with the examination, having first adopted the rule to examine only one witness at a time, and to give no one witness an opportunity to hear the testimony of others. Each witness was sworn, his statement was reduced to writing, and signed by him. The whole evidence so taken is herewith submitted, marked "Record of evidence, Nos. 1 and 2." After we had completed the investigation, so far as it could be done, on the evidence of the citizens, which is embodied in Record No. 1, we addressed a letter to Major Smith, stating that the testimony taken strongly implicated himself and several of his men in burning of the town, and that, if desired by him, we could visit his camp at such time, on the 20th instant, as would suit his convenience, and receive any statement he might desire to make, and the evidence of such others as he might wish to examine. He then invited us to his camp, and we there took down the evidence embodied in Record No. 2. It was on this occasion that Major Smith informed us for the first time of the desertion of the men named above.

We have set out these facts thus fully in order to show that our object was to make a thorough and impartial investigation, and that if witnesses were absent, and facts unexplained, the responsibility rests with others, not with us.

Having submitted the whole testimony taken by us, we deem it necessary to state briefly, and in a connected form, the facts as they transpired, and to give the conclusions therefrom which have forced themselves upon the minds of the committee.

On Friday night, the 7th instant, a party of United States soldiers belonging to the command of Major G. W. Smith, stationed at Brenham, being under the influence of liquor, visited a negro ball in the town, created a disturbance, beat some of the negro men, and ultimately broke up the ball.

About 11 o'clock this same party of soldiers pursued a negro, who was endeavoring to escape them, to the door of the ballroom, upstairs, where a party of white ladies and gentlemen were engaged in dancing. The soldiers dragged the terrified and screaming negro to the foot of the stairs and commenced to beat him. This disturbance alarmed the ladies within, and a small party of gentlemen, the escorts and companions of the ladies at the ball, among whom were Messrs. Wyatt, Dickie, and McAlister, went out to quell it. They stated to the soldiers that this was a private party of ladies and gentlemen, who did not wish to be disturbed, and they requested the soldiers to leave. This the soldiers refused to do; but instead they used violent, insulting, and obscene language, and finally drew their weapons and flourished them in the faces of some of the citizens, and attempted to strike others. The citizens were wholly unarmed, but dispersed to arm themselves for their own protection, and that of their female friends. On their return, armed, the quarrel was renewed, pistol shots were fired, and other weapons were used, and in the course of the difficulty two of the soldiers were wounded. The wounded men were borne off by their companions. There was no attempt on the part of the citizens to follow them up, or to injure them after they had left the immediate neighborhood of the ballroom. The wounded men were taken to camp, and citizen surgeons were called in to attend them. Meanwhile intense excitement existed in the camp, and threats, pointing to the burning of the town and other injuries to the citizens, were loud and frequent. Similar threats of burning and violence were openly made by the soldiers throughout the night up to the moment of the fire.

At about 12 o'clock Major Smith, with a mounted squad, came into Brenham, arrested and sent to camp two beardless boys as "hostages," according to his subsequent statement to Dr. Bauer; but according to his statement to the committee, on the ground that they were parties to the rioting. We are compelled, however, in candor to say

that there was not a particle of testimony introduced to show that either of these boys was even present at the difficulty. Major Smith, after a fruitless search for Wyatt, McAlister, and others, announced to the clerk of the principal hotel in Brenham that if these parties, and Wyatt in particular, were not delivered up to him within an hour, the people of the town (according to the civilian witnesses), or the parties named, according to the statement of Major Smith and his men, would have cause to regret it, and that he would be back before daylight. Major Smith and his mounted squad then patrolled the town, and visited several places, among others Compton's store, where he posted an armed guard of infantry, and then, after announcing that the hour was up, proceeded to Wyatt's saloon, forced their way into it by breaking down the doors, and then commenced a wanton destruction of the furniture and other property. The whole company of soldiers had followed Major Smith into the town and now joined him in front of Wyatt's. After they had plundered the establishment and destroyed or carried away its most valuable contents, the men were ordered out, and marched about one hundred yards in the direction of their camp, when they were halted in front of Reddick's Hotel, on the edge of town; here words of command were given, the subject of burning the town was discussed, liquors stolen from Wyatt's saloon were drunk, and finally a portion of the company were marched in the direction of their camp, and a portion back into the town. The party who marched into the town proceeded directly to Compton's store; and after firing six or eight shots into the building, forced their way in by breaking down the doors, and destroyed or carried off a quantity of the goods. Within a few minutes this party, or another, returned to the same store and piled up boxes and other inflammable material and fired it, guarding the premises until the fire had gotten beyond control, or until, as one of them expressed it, "all hell couldn't save it now." The interval of time between Major Smith's departure with his men from Wyatt's saloon and the firing of Compton's store could not have exceeded three-quarters of an hour. During the pillaging and the firing armed sentinels were stationed in front of Compton's store and a mounted vidette was patrolling the streets. The men who committed these outrages were armed, equipped, and dressed as United States soldiers. None but soldiers have been permitted to wear the uniform and bear the arms of the United States Army in Washington County since the surrender.

Upon all these facts we think no candid man can arrive at any other conclusion than those which have forced themselves upon our minds, to wit:

That the original difficulty at the negro ball was occasioned by the soldiers; the citizens had no part in it; that the difficulty at the white ball grew out of an unlawful interference by a party of armed and drunken soldiers with a peaceful party of ladies and gentlemen met together for social recreation. That the gentlemen of this party were wholly unarmed and unsuspecting of any difficulty. That they mildly requested the soldiers to cease the disturbance, and only after being insulted and assaulted did they arm themselves and drive their assailants from the neighborhood of the ballroom, wounding two of them, one severely and another slightly, but neither of them mortally. That throughout this difficulty the whole blame rests with the drunken soldiers who provoked it; and that the citizens not only had the lawful right to resist it, as they did, but could not honorably have done less.

That on the return of these wounded men to camp intense excitement was aroused among their fellow-soldiers; and these, within the hearing of Major Smith, and without any attempt at concealment from him, threatened to hold the town responsible for the alleged injury; that similar threats were openly made by the soldiers up to the hour of the burning, and could scarcely have been unknown to their commanding officers; that Major Smith not only took no measures to repress this excitement, or to prevent the execution of these threats, but, on the contrary, lent them the sanction of threatening words and actions of his own; that he ordered and permitted an already excited soldiery to break into and pillage an establishment which he knew to be filled with liquors; that after leaving this saloon the company was marched, under orders, about one hundred yards in the direction of their camp, and were there halted for some time, while liquors were circulated; the subject of burning the town was discussed, words of command were given, and then a portion of the company was marched toward camp, while another portion went directly down to Compton's store, and after firing into the building broke open and pillaged the store, and within fifteen or twenty minutes fired the building, and guarded it until the flames had got beyond control. That these acts of pillage and incendiarism were done by soldiers belonging to Major Smith's command, among whom we feel warranted in naming Privates Murray, Murphy, Mackey, and Riley, who deserted on the 17th instant, and Sergeant Howard, who was subsequently detailed to go in pursuit of them; that in these acts of pillage and incendiarism the soldiers were acting under military orders, but whether or not emanating directly from Major Smith the evidence is not sufficiently full to authorize us to declare; that Major Smith, on his return to camp, neither called the roll to

ascertain whether all his men were present, nor took any adequate precautions to prevent the execution of these threats against the town; and when the alarm of fire reached his camp, he neither ordered nor encouraged his men to go to the assistance of the burning town; and, so far as the committee have been able to ascertain, no man of the command was in the town after the fire had gotten well under way; that, so far as the committee have been able to ascertain, no attempt has been made by Major Smith to arrest the parties named and identified by citizens as engaged in the burning; that four of the parties so identified deserted on the night of the 17th instant, and four others who were suspected on the night of the 19th, and that Sergeant Howard, who was identified as one of those engaged in the burning, was detailed by Major Smith to go in pursuit of the first party of deserters; that on the 18th instant we had demanded these very parties of Major Smith as witnesses; that although they must, at the time, have been absent from camp, he declined to deliver them up on other grounds, and did not apprise us of their desertion and absence until the 20th instant, after it was too late to send in pursuit of them with any reasonable hope of success.

The committee regret that they have not been able to ascertain the names of all the soldiers engaged in the perpetration of these outrages. Had they been fortunate enough to have obtained an earlier and heartier cooperation from the military; had Major Smith arrested and placed under guard the men recognized and pointed out by citizens as those engaged in the burning; had he used the necessary precautions to prevent the desertion of these parties; had he sent Sergeant Howard, one of the parties accused, before the committee, instead of detailing him to go in pursuit of the other parties accused; had he promptly informed the committee during the three days of correspondence and communication between them of the desertion of these parties, instead of giving other reasons for refusing to permit them to appear as witnesses, your committee might have been enabled to blazon the names of all the guilty parties for the execration of mankind, and the punishment due their crimes. Whether, however, such a course would have contributed toward relieving Major Smith from the universal suspicion of having instigated and directed the burning, your committee do not feel called upon to say.

Your committee feel that they ought not to close this report without bearing testimony to the law-abiding spirit evinced by the citizens of Brenham under outrages so well calculated to call forth their indignation, and even provoke retaliatory breaches of the peace. The committee have observed with gratification and pride that while there exists among all classes of citizens a determination to defend themselves against similar outrages in the future, they yet bear their heavy wrongs of the past with a dignified forbearance, trusting that in the fullness of time the outraged law may be vindicated and the midnight incendiaries brought to justice.

Your committee herewith submit a list of the names of the persons whose property was destroyed by the fire, with amount of loss sustained by each, together with the evidence taken to substantiate said claims, amounting in the aggregate to the sum of \$131,026.

These claims are proven by the affidavits of the parties respectively, and the affidavits of disinterested parties to the same facts.

Your committee recommend that our Senators and Representatives in Congress, and the governor of this State, urge upon the Congress of the United States the justice and importance of an early settlement of these claims.

It is apparent from the testimony that the fire was the act of the Federal soldiers stationed by the General Government at the town of Brenham, and the destruction of the property of the citizens wanton and wholly unauthorized by law.

Your committee also recommend that the President of the United States and military authorities be requested to remove the company of soldiers now stationed at Brenham to the frontier, where their presence and services are imperatively required to protect the exposed frontier against the murderous attacks of the savage.

Your committee also recommend that his excellency the governor demand that Bvt. Maj. G. W. Smith, and such members of his command as have been or may be identified as parties engaged in the burning of the town, be delivered to the civil authorities for trial.

And your committee would here state that Wyatt and McAlister, charged with the offense of shooting the soldiers, have been bound over in bonds for their appearance before the district court of said county.

All of which is most respectfully submitted.

GEO. E. BURNEY,
On part of Senate,

C. KYLE,
J. D. GIDDINGS,
On part of House of Representatives,
Committee.

Statement of losses incurred by citizens at the burning of a portion of the town of Brenham, in Washington County, on the night of the 7th of September, 1866.

No.	Name of affiant.	Character of losses.	Value.
1	Francis D. Allen.....	Books, accounts, etc.....	\$5,000
2	Allen & Neumann.....	Books, stationery, etc.....	3,500
3	C. R. Breedlove, agent for V. Little.....	House.....	1,500
4	J. B. Campbell.....	House and groceries.....	1,500
5	N. F. Campbell.....	Saddler's shop and contents.....	700
6	Compton & Brothers.....	Merchandise, books, accounts, etc.....	25,000
7	John Dunning.....	Soda fountain and fixtures.....	225
8	Samuel Levinson et al.....	Merchandise, money, accounts, etc.....	27,800
9	D. L. McGary.....	Law books, notes, etc.....	500
10	McGary & Roff.....	Printing office, etc.....	5,000
11	George W. Moore.....	Clothing and money.....	60
12	Norris & McNeese.....	Two storehouses, furniture, etc.....	35,000
13	Pressly & Roff.....	House, bar fixtures, liquors, etc.....	2,500
14	C. & J. Stevenson.....	Clothing, medical library, etc.....	1,000
15	H. C. Surghnor.....	Household goods.....	600
16	Watkins & Stevenson.....	Drugs, medicines, etc.....	15,141
17	John B. Watkins.....	General merchandise.....	9,000
18	Wyatt & McCrocklin.....	Barroom, billiard saloon, furniture, and liquors.	1,500
			131,026

Record No. 1.

Thomas W. Moore, sworn, saith: I had been to the Baptist Church on the evening of Friday, the 17th September, and when returning, about 10 o'clock, I passed by the negro ball, and observed Federal soldiers dancing with the negro women, and presently three or four soldiers came up to the door. I then stood near the door looking in; the soldiers attempted to go in, and a negro barber, I think, by the name of Foster, demanded pay, and told them it was a pay ball; they refused, and after some words pressed their way into the ballroom, passed round their bottles, and insisted that the negro women as well as the men should drink; some refused. They made some disturbance, and finally blowed out the light and attacked the negro barber, struck him several times, and broke up the negro ball. The soldiers then started up to the dancing room of Dukes; were drinking; some of them quite intoxicated. I started to the hotel; two soldiers overtook me; one was called Mackey, who caught me by the collar, and tore my coat, and then caught me by the throat; another soldier came up, and they found I was a white man, and not a resident of the town. They then said that they had broken up a negro ball, and were then going to break up the white ball of Dukes; two soldiers took hold of me, one by each arm, and forced me along with them; they had some talk with a drunken Indian on the street, but the two compelled me to go along with them to the dancing room of Messrs. Dukes. When they reached the steps leading up to the hall, a negro man was going up the steps; they seized him, pulled him down to the ground, beat and kicked the negro, and made much disturbance and noise, cursing and using obscene language, and singing obscene songs. Some gentlemen came down from the dancing room and quietly requested the soldiers to go away and not interrupt the ladies, when one soldier drew a large knife, another a bayonet, and struck at Captain Dickie; others seemed to be much infuriated and determined on mischief; in a short time a pistol fired; whether it was fired by a soldier or citizen I can not positively state, but one soldier had his pistol and I believe fired the first shot; then several shots were fired, and one soldier was knocked down. As I was being carried along the street toward the dancing room of Messrs. Dukes some of the soldiers pursued and caught some of the negro women in the street, and by force threw them down in the street.

THOS. W. MOORE.

Sworn to and subscribed before us the 25th September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

STATE OF TEXAS, County of Washington:

Personally appeared before the undersigned commission, appointed by the legislature of the State of Texas, G. W. Moore, a citizen of the State aforesaid, who, being duly sworn, saith that the first I knew of the disturbance in town, I was sleeping in the Banner office, over Compton & Bros.' store, on the night of the 7th September, 1866. I was awakened by some person or persons throwing rocks against the front

door and the firing of guns; the knocking continued, and finally they succeeded in breaking into the house. As well as I could see, there were about eight men, all dressed in Federal uniform, with guns and bayonets. After they succeeded in breaking the door down they entered the house, and then took all the goods they could conveniently carry, and marched off up Main street in the direction of their camp. They were gone about half or three-quarters of an hour when a party of about the same number returned and entered the house, remained some fifteen or twenty minutes, when they set fire to it. I then, finding that the house was on fire, determined to make my escape if possible. Seeing that they still seemed to guard the house, I made my way to the foot of the stairs as quietly as possible, passed the guard in a run, and thus made my escape by having some two or three shots fired at me. I could hear them converse, but, it being in a foreign language, could not distinguish what was said. The last party seemed to be armed and dressed as the first. I first discovered the house was on fire by hearing the crackling and seeing the smoke coming up through the floor, and the soldiers guarded the house until the fire was well under way. There were three sleeping in the room besides myself, Henry Ludlow, Robert Dixon, and James Skinner.

G. W. MOORE.

Sworn to and subscribed before us this the 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

The following witness, called and sworn, saith:

Henry Foster (colored man), being sworn, saith: On the night of September 7, 1866, I was giving a ball in a house north of Reddick's Hotel, when some five Federal soldiers came. I stopped them at the door, and asked them for pay, and told them the ball was given for the benefit of the colored people, and not for them; they said that I was the first one that ever charged them anything, or objected to their coming in; they refused to pay, but forced themselves past me. One sent after the balance of their crowd. They had a couple bottles of whisky, and commenced dancing backward and forward across the floor, passing the whisky around while dancing, and tried to get the women to drink. One was dancing with Mollie Browning (colored woman). In consequence of their conduct I said I would not keep the ball open any longer; they replied that they would throw me out and take charge of it themselves; we danced but two sets when I told the colored people, in consequence of the conduct of the soldiers, that I would break up the ball, and left the house; this was about 10 o'clock. After the colored people had left, one of the soldiers named Mickey struck at me with a long piece of plank, which I warded off. About this time four or five soldiers gathered around me; one had a long knife, which he waved over me, cursing me at the time; he then put the knife in his bosom and struck me with his fist; another one struck me with his fist at the same time; I then dodged under a man and slipped out the door; I ran round the east side of the square to the post-office, and there saw the same party who had been after me beating a colored boy named Bob Shaw, near Williamson & Dickie's store. I then left and went home, and knew nothing more until the alarm of fire was given.

his
HENRY + FOSTER.
mark.

Sworn to and subscribed before us this 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Susan Walker (colored), being sworn, saith: On the night of September 7, 1866, I was at the white people's ball, standing on the steps; there was a colored man standing beside me; a soldier whose name is Mackey, belonging to Smith's company, caught him by the arm and pulled him head foremost down stairs; that created an excitement up stairs; the crowd came rushing down, and a gentleman asked me what was the matter. I told him the Indians or soldiers, one, were fighting at the door; the first crowd rushed back up stairs; the second crowd came down; a gentleman in it asked: "What in the hell was the row?" A soldier replied, "We are not after you, sir, but after that damned negro!" The citizen said, "This is no place to raise a row." The soldier then began to curse and abuse the citizen, and drew a knife on him; the citizen told him to take it back. Another soldier stepped up and said, "Take back hell! Mackey, don't you take back nothing; we can whip the whole damn crowd!" The citizen then

disappeared and I went up stairs. In a few moments I heard firing; did not see who did the firing. I afterward saw that they were soldiers who were fighting at the door.

her
SUSAN + WALKER
mark.

Sworn to and subscribed before us this the 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

John M. Sharp, being sworn, saith: On the night of the 7th September, 1866, I was sleeping at Mr. Sawyer's, some two hundred and fifty yards east from the court-house; I was awakened by the dogs barking and people passing the street; went out to look after my horses; Mr. Sawyer's house is on the direct route from the court-house to the soldiers' camp. I said I believed I would go up town and see what is going on; (I suppose this was between 2 and 3 o'clock;) when I got opposite the north front of the court-house I heard six guns fired in front of Compton Bros.' store; very soon two more were fired; I next heard pounding on the doors, and heard the rattle of broken plank and glass; I then started home, the crowd following after me; I got over the corner of the fence, and was so near them that I could have touched them with a stick, they were all dressed in Federal uniform; some had on military caps, and all had guns. I heard one say, "We made a pretty good raid to-night;" another one replied, "I did not get much; only six combs." Mr. Dillar, who also slept at Mr. Sawyer's (after the soldiers all passed, going toward camp), and myself came up town; Mr. Dillar stopped at his store in the upper part of town; I came on down opposite the Morris building, when I saw three soldiers in Compton Bros.' store; they were dressed in uniform, with military caps on and had guns; I went back up to Dillar's store and told Dillar that I saw three soldiers in Compton's store; Dillar stood on his front platform and said, "They have set fire to it." When on my way up from Compton's store, and near the Clark and Terry corner, I saw a tall, slim man sitting in the street on a sorrel ball-faced horse, which I recognized as Captain Smith's ball-faced, sorrel horse which he has been in the habit of riding ever since he has been here. I am an old stage driver, and am in the habit of paying a great deal of attention to horses, and knew the horse to be the one which Captain Smith is in the habit of riding. When I came to within ten or twelve feet of him he galloped toward the south side of the square; I never saw any one but Captain Smith ride this horse; I passed on until opposite the court-house; I saw two men come out of Compton's store, dressed in blue, caps on, guns in their hands; one says to the others, "Come on;" one replied, "Hold on;" as I got near the store the third one came out, and the smoke and flame followed him out of the door. He cried, "All hell can't save it now;" they ran toward the depot; when I got to the front door the whole of the lower part of the building was in flames, and it was impossible for any one to enter. I took the man who cried "All hell can't save it" to be an Irishman, from his brogue. The man who was sitting on the horse in the street wore a dark-colored hat similar in appearance to the one usually worn by Captain Smith.

his
JOHN M. + SHARP.
mark.

Sworn to and subscribed before us this the 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Thos. S. Robards, being duly sworn, saith: I was at the Crumpler Hotel when Captain Smith called for Wyatt and others; Captain S. told Mr. Welch, clerk of the hotel, to say to the citizens of Brenham that "if Wyatt and other parties, more especially Wyatt, were not forthcoming within one hour, they would have cause to regret it; I will be back between now and daylight." This conversation occurred about 12 o'clock on the night of September 7, 1866. In regard to Tommy Lusk, a boy aged 16, he ordered the guard to take him to camp, and to shoot him if he attempted to escape; Captain Smith was mounted at this time, and had a squad of some ten or twelve men with him, all mounted.

THOS. S. ROBARDS.

Sworn to and subscribed before us this the 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

John Welch, being duly sworn, saith: I am clerk of the Crumpler Hotel; on the night of the 7th instant Captain Smith called, about 12 o'clock, and asked if Captain Wyatt was in; I told him I did not know; he then asked if he did not board here; I told him yes; he then told me to show his sergeant Captain Wyatt's room; the sergeant found the room but did not find Wyatt in it; he then asked me to show the sergeant Tommy Lusk's room; he arrested Lusk, and told two of his men to take him to camp, and if he attempted to run to shoot him, and asked me if I knew McAllister; I told him I did; and asked if I knew where he was; I told him I did not; and asked me if I knew John Shepard; I told him I did; and asked if I knew where he was; I told him no; he then remarked that likely they would be at the hotel before morning, and if they did not report to him within an hour, particularly Wyatt, that the citizens would have cause to regret it. Captain Smith at the time he called at the hotel, and during this conversation, was mounted on a sorrel horse with a ball face, the same that he usually rides; his manner was very much excited, so much so that when I heard the alarm of fire I looked for fire in several directions; the captain was dressed in a dark suit; during the conversation I stood near Captain Smith with a candle in my hand.

J. WELCH.

Sworn to and subscribed before us this the 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Robert Dixon, being duly sworn, saith: On the night of September 7, 1866, I was in the Banner office, immediately over the store of Compton Bros.; I was awakened by a noise at the store door; I got up and went out on the front porch; by this time five or six shots were fired in the direction of where I stood; I thought they were coming upstairs, so I went out of the window on an adjoining building; the men were dressed in blue uniforms, wore caps; this party, after breaking into the store, went off; after they left I went downstairs to the door, which had been broken in. I saw a party of soldiers coming, some twelve or thirteen, on foot; I then went upstairs and got on to the same building from which I saw the first party; this second party went into the store; I could hear them talk, but, they being foreigners, could not understand what they said; I soon saw a light coming out of the front door and saw a man on horseback ride in front of the door, mounted on a sorrel horse. I took the man to be Captain Smith; he asked the men in the house if it was well done; one replied, "Yes, all hell could not save it." The man on horseback was about Captain Smith's size. The last party and those that set the house on fire were rather quiet while in the store; I heard the popping of the fire before these men left; when I got downstairs they had gone; the fire was well under way, the flame coming out of the door, when I got on the ground.

his
ROBT. + DIXON.
mark.

Sworn to and subscribed before us this 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

J. W. Wallace, being duly sworn, saith: I am a clerk in the house of A. J. McCreery & Co. On the night of the fire, September 7, 1866, I was brought to my window fronting Main street by a noise which afterward proved to be the breaking in of Wyatt & McCrocklin's; a short time afterward I saw a party of Federal soldiers coming down the street; I saw them go to Compton Bro.'s store, or in that direction; I heard a noise, battering and beating, as though they were breaking into a house, and in a few minutes I heard the breaking of something I took to be glass, in the inside of the store; the party, after being in the store some fifteen or twenty minutes, passed up the street; they stopped in front of my window some five minutes; they were drinking, and I supposed they stopped to take a drink; a short time afterward I saw a horseman pass down the street, dressed in dark clothing; I suppose in three-quarters of an hour I heard a noise in Compton Bro.'s store like breaking boxes. In a few minutes I saw by the light of the fire three men come out of the store with guns in their hands; they were dressed in Federal uniforms; I could see them distinctly by the light of the fire;

they moved off down street in the direction of the depot; the alarm of fire was then given, and I went to work saving books and papers.

J. W. WALLACE.

Sworn to and subscribed before us this 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

J. L. Compton sworn: Was a merchant before my house was burned. I was sitting at my home about 10 o'clock. My two younger brothers, who had been at the ball, came home and said that there was a fuss with the soldiers, and the dance was broken up. I retired about 11 o'clock; my younger brother and Henry Currie, who was visiting the house that evening, went to the store to go to bed; some time after 12 o'clock they came home, woke me up, and told me that Captain Smith demanded my brother Oscar, a boy 16 years old. In company with Mr. Currie, I took Oscar and started up town with him. Before we got to Wyatt's saloon I heard a noise inside of breaking glass-ware, and saw mounted men in front of the saloon, whom, in a few moments, I found to be Captain Smith and his squad of men. I asked for Captain Smith, who was then ordering his men out of the house; I turned my brother over to him and asked him if I could not be responsible for him until morning; he said not. I then told my brother he would have to go, and that I would see him in the morning. Currie and myself walked down the street toward my store. Just opposite Norton's I met three soldiers, armed, and one had a bundle of something in his hand; we went on down to the store and sat down on the sill, intending not to retire until everything was quiet. I heard Captain Onins and Dr. Stevenson (who had just returned from Captain Smith's camp) talking in Captain Onins's office. I went up and left Currie at my front door. In a few moments, not over five minutes, I heard voices coming down the street; it was a party of Federal soldiers; Currie, on their approach, followed me upstairs. They first threw rocks against the door; they fired one shot up the stairs and several in other directions; I could see the flashes; they then broke down the door of my store and plundered it for some ten or fifteen minutes; some of them came out; one, whom I thought, from his brogue, to be a German, said, "Come on, boys, we have satisfaction; we have done the son of a b—h injury enough." They went off up Main street. We all, Currie, Onins, Stevenson, and Colonel Sweringen and myself, went downstairs; there were goods and books scattered in front of the door; Currie and I went in; did not know if the others did; I saw they had pretty well scattered things around; I came out, and we all departed. I went up over Mr. McCreery's store, where his clerks were sleeping; at the foot of the stairs I met John McCrocklin, a partner of Wyatt's, who said he had been up examining his premises. We staid up a few minutes, and McCrocklin walked down toward my store. When we got in about ten steps I saw three soldiers appear in Federal uniform standing in the door smoking cigars. In hopes they would go off and leave my house without further injury, we started around to the hotel, out of sight, when we met Dr. Stevenson and his brother John. We went to the hotel and seated ourselves on the stoop; while sitting there a horseman galloped down the street and then made back up Main street; he came immediately back and rode around in front of my store; from his dark dress and the rattle of his equipage I took him to be a Federal soldier. In some five minutes or less Colonel Sweringen came running to the hotel and said to me, "Compton, your house is on fire." We all ran around to my front door, out of which a blaze six or eight feet long was streaming. Seeing I could not get into my front door, I went to my back door, and having nothing to break it down with, I tore off a plank and climbed up to the window, the sill of which was wet, caused by the smoke. I raised the window, but the smoke was so suffocating that I fell to the ground; I now went to the front door, where some ten or twelve citizens were gathered; we all went to work to save what we could from the other buildings. I estimate my loss at \$25,000, currency. I kept everything except groceries. My losses are in merchandise, my own books and papers, and those of my father's estate, which I am settling up. The stores burned were four dry goods, one drug store, one saddler shop, two bars, one bookstore, one storeroom with goods; upstairs there were offices, lawyers' and doctors', printing office. The party of soldiers who first broke into my store, and those who afterward fired it, were different sets; the first were drinking, the last were sober.

J. L. COMPTON.

Sworn to and subscribed in our presence this 18th day of September, A. D. 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Henry Ludlow sworn: The first thing I heard was a shot fired under the balcony, over Compton's store; it woke me up. I set up in bed until I heard the Yankees get about halfway up the stairs; I then got up and went through the back door of McGary's law office, where I was sleeping, into the printing office. Just as I got inside the printing office I heard six or eight shots fired on the head of the stairs. I then went out on the roof of the grocery adjoining the Morris building, through the window. I staid there until the Yankees went down stairs; heard them break open Compton's front door, as I afterward found. I heard them leave the house; looked out the window and saw them going up Main street. After they got past Clark's grocery I came down stairs; met Captain Onins, Dr. Stevenson, and two or three others standing in front of Compton's store; I left them there, and went with Henry Currie down to the hotel; Currie shook at the door, tried to wake Welch, the hotel clerk, up; went with him from there to Dunning's, and saw a man ride up to the steps leading into court-house square; this was about ten minutes before the fire. I walked out about half way between the store and the court-house fence; the man on horseback rode up the street; think he turned the corner of the court-house square. I went from there over toward Compton's store; heard some one talking; thought they were Onins, Compton, and Stevenson, whom I had left there; saw my mistake from their brogue; thought they were Irish; I went with Captain Onins behind the grocery kept by Aycock & Cannon; told Captain Onins to remain a few minutes, and I would go and be certain if they were citizens or soldiers. I went around behind Ralston's saddler shop, around the jail, and coming up in the weeds behind the store kept by Gans, looked around the corner of the house; saw two Federal soldiers come up to the tree in front of Gans' store; they were in fifteen feet of me; I thought they were Germans; they passed the place where I was hiding twice; they had arms, the same usually carried here by the soldiers. I stayed in there about three or five minutes, and heard some one hollo, "Fire!" I saw three men then leave the front of the house; don't know whether they came out of the house, as I could not see the front of the house from my position. They went up the street on the south side of the public square; I heard one of them call Howard three or four times; but before that, however, I heard one of them say, "Kill the G—d d—n Yankees, will you?" They got out of sight a few minutes after that. About the time Compton Bros.' store was first broken open I recognized the voice of one man, named Murray, belonging to Captain Smith's command. During Colonel Mason's investigation I was taken to camp to see if I could recognize Murray's voice; I was put in a tent, with my back to the door; the soldiers were put in a line and made to speak; about the third or fourth man I recognized Murray's voice; they tried me again. I recognized Murray's voice the second time; the third time I was told they would take Murray out of the line, to see if I could find any other whose voice resembled Murray's. I again told him by his voice, in with the rest, and Lieutenant Plume told me that he had put him back in line with the rest. Captain Smith was present with me in the tent.

HENRY LUDLOW.

Sworn to and subscribed before us this 18th day of September, A. D. 1866.

G. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Mrs. M. G. Reddick, being duly sworn, saith: On the night of September 7, 1866, I was in a room in Reddick's Hotel, fronting immediately on Main street; I was aroused by Mrs. Shurtleff coming into my room, frightened from her home by Federal soldiers breaking into Wyatt's saloon, which was in the same building, and adjoining her room. In some fifteen minutes twenty-five or thirty Federal soldiers came and formed in front of my hotel; one says, "We would have broken those billiard tables all to pieces if you had said so; we tore the cloth off, anyhow, and we will burn the town down before morning, if you say so." I understood the remarks to be made to the commanding officer; I heard no reply to these remarks; the mounted men rode down the street; the soldiers were continually passing from the time Wyatt's saloon was broken open until the fire broke out; they were drinking; I could distinctly hear their glasses strike together; all, or nearly all, were smoking cigars; I could distinguish their line by their lights. A squad of infantry passed down the street toward the Crumpler Hotel, and in a few moments I heard several shots fired.

C. A. REDDICK.

Sworn to and subscribed before us this 18th day of September, 1866.

GEORGE E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Mrs. Dr. Shurtleff, being sworn, saith: On the night of September 7, 1866, at about 11 o'clock, I was alarmed by persons breaking into Wyatt's saloon, which is in the same building and adjoining my room. I afterward found these persons to be Federal soldiers. I made my escape through the back window, and came to the Reddick Hotel, and occupied, while there, the same room with Mrs. Reddick. I immediately saw soldiers form in line in a few feet of the gallery of the hotel. I only understood one voice distinctly, and that was Irish; his voice was rather peculiar, and heard him distinctly say, "We would have broken the billiard tables all to smash if you had said so; we tore the cloths off, anyhow, and we will burn the town if you say so." This latter remark was repeated several times. Some seemed to be in favor of burning the town, while others opposed it. One squad passed down the street toward the Crumpler House, while the main body marched off in the direction of camp. I recognized in the party that went toward the Crumpler Hotel the same Irish voice which favored burning the town, and he said, as they started off, "Now for the gold." Previous to their separating they seemed to come to some decision; what it was I could not hear; but some went toward camp and some down toward the Crumpler Hotel; the portion that went down town seemed determined to do something, and with the assent of the other portion. In a few moments I heard the knocking and firing, and saw the blaze of the guns in front of the block of buildings that was burned. During the time the soldiers were formed in front of the hotel I was within a few feet of them, and heard every word distinctly.

HELEN SHURTLEFF.

Sworn to and subscribed before us this 18th day of September, 1866.

GEORGE E. BURNEY,
C. KYLE,
J. C. GIDDINGS,
Committee.

M. G. Reddick, being sworn, saith: On the night of September 7, 1866, I was awakened by Mrs. Shurtleff coming into my room, who told me some soldiers were breaking into Wyatt's saloon. I ran over to the saloon immediately, when I saw some fifteen or twenty soldiers in Wyatt's saloon, who had lights. I passed around to the front of the saloon; there I saw Captain Smith; the light was shining upon him from the saloon; he was on horseback (a sorrel horse), and with several mounted men. As I left the infantry were coming out of Wyatt's. I had hardly reached my hotel when they came around and formed near the gallery of my hotel. Then they counted off, "One, two, right face," then, "Front face," then "Right dress;" when one said, "Let's take a drink." They touched glasses and drank. After they drank, one said, "If you had said so we would have broken those billiard tables to smash; we tore the cloths off, anyhow; and if you say so we will burn the damn town to ashes before morning." These remarks seemed to be addressed to the commanding officer. This last remark was repeated at least three times, but I heard no reply. There seemed to be a consultation as to their future movements. After the conversation they separated; some went toward their camp, and some toward the Crumpler Hotel. When they left my hotel the clock struck two. I soon heard the breaking in of houses and the firing of guns. I followed them down one block. The noise and firing was in the direction of the Crumpler Hotel. They were passing on Main street, and on a street running parallel and south of Main street, until the fire broke out, both foot and mounted men. In about half an hour a party came back, who seemed to be loaded with goods. I heard one remark, "I have combs and socks enough to last me four years;" another remarks, "Your are a d—n fool that you did not get something else." I am proprietor of the Reddick Hotel. I have never seen any but Federal soldiers dressed in Federal uniform in this vicinity, and the citizens have no arms like those used by soldiers, being ordered long since to turn all arms over to the United States Government agents, which has been done.

M. G. REDDICK.

Sworn to and subscribed before us this 18th September, A. D. 1866.

GEORGE E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

J. M. Crundwell, being duly sworn, saith: At precisely half past one o'clock on Saturday morning, September 8, 1866, I saw Captain Smith and about ten or fifteen files (twenty-five or thirty men) of soldiers in front of my house at an "order arms."

I heard them passing about, backward and forward, in small squads, after they had formed in the street, some half an hour; where the soldiers formed was one block from Wyatt's saloon.

J. M. CRUNDWELL.

Sworn to and subscribed before us this 19th day of September, 1866.

GEORGE E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Captain Dickie sworn: I was at the dancing saloon of Messrs. Duke on the evening of Friday, the 7th instant, and after having been in the room for some time Mr. McAllister and myself started to go over to my store. On arriving at the head of the stair steps I saw a Yankee soldier catch a negro boy by the collar and jerk him about half-way down the steps, at which place another took hold of him before the negro could rise, and dragged him to the foot of the steps and gave him several licks. About that time McAllister and myself arrived at the foot of the steps. Mr. McAllister remarked to the Yankee soldiers that it was a private party, and that they did not wish to be disturbed. At which remark they began to curse those of us present. About that time Captain Wyatt came down and made the same remark—that it was a private party, and asked them to go away and let the party alone. One of them drew a bayonet and waved it in the face of Mr. Wyatt; another then attempted to draw a six-shooter, remarking: "Don't make any apology to the d—n rebels." About this time McAllister and Wyatt left. I also left, and on my return I saw Mr. Wyatt come up and ask, "Where is the man that drew that thing on me?" Whereupon one of them remarked, "I am the man;" and both soldiers attempted to draw their six-shooters, and had them about half way drawn when Mr. Wyatt struck with his pistol at one of the Yankees. The firing then began. I also saw, prior to the shooting, one of the Yankees strike at Mr. Harton, and saw one strike at Thomas Stone, who was standing by my side.

J. C. DICKIE.

Sworn to and subscribed before us this 19th day of September, A. D. 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

W. H. McAllister, being duly sworn, saith: I was at Messrs. J. E. Duke & Bro.'s dancing academy on the evening of the 7th instant, attending a social party given complimentary to the schools. About half-after nine or ten o'clock I started, in company with Captain J. C. Dickie and Captain Wyatt, to Captain Dickie's store. Started down the stairs; was stopped on the stairs by Federal soldiers, who had a negro woman on the stairs and were trying to pull her down the stairs, cursing and swearing, and making a considerable noise. I remarked to them not to create any disturbance, as the house was full of ladies, and we did not wish any disturbance. One of the soldiers said, "May be you don't like it, G—d d—n you!" I told him we did not wish to have any difficulty. About that time Captain Wyatt came up and said, "Boys, do not raise any row here, the house is full of ladies." One of the soldiers remarked to the other, "Don't make any apologies, by Jesus; take nothing back," and about that time I saw several soldiers draw their bayonets, knives, and six-shooters, remarking at the time, "G—d d—n the rebels, we are not afraid of them."

On the night of the 7th instant, after midnight, I was aroused from my bed by a very unusual noise in the upper portion of the town, which sounded like the breaking of glass and the smashing or breaking up of furniture. I arose and dressed myself; I sat down by my window; had seated myself but a few minutes when I saw a crowd pass by my window and go to Mr. Compton's store, and heard them when they broke the doors open, and heard them breaking up glass or china ware. They remained there some twenty minutes, and then returned up the street, and when opposite the store, or my room, some one of the party remarked that they would go down to Shepard's and fire a salute or two for him, G—d d—n him. About half an hour afterward a party returned. I do not know whether it was the same or not. They went to Mr. Compton's store and went in. They had been there but a few minutes when I saw the house was very brilliantly illuminated, so that I could see everything very plainly all around the front of the house. I saw some ten or twelve men dressed in Federal uniform, some in the door and others just outside. They remained near the building

until the flame made its exit out of the front door, and then they ran up the street, passed the store, and gave the alarm of fire.

Shortly after the occupation of the town by the Federal troops there was an order issued by the post commander forbidding all citizens from wearing the uniforms of either Federal or Confederates, and all arms, both private and public, were not permitted to be used by the citizens, by order of the post commander. I have never seen any citizen dressed in Federal uniform since the occupation of the town by Federal troops. I saw at Mr. Compton's store, when the house was fired, men dressed in Federal uniform with army guns; heard the report of their guns, and saw the fire from them; heard them ram the guns as if they were loading them.

W. H. McALLISTER.

Sworn to and subscribed before us the 19th day of September, A. D. 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Dr. Stevenson sworn: I am a practicing physician; was called upon to see some soldiers who had been wounded in a fracas. I went down; found a soldier lying wounded in the lane between Crow's and Breedlove's. Went on to camp ahead of the party with the wounded soldier. I was present when his wound was dressed. Soon after I got there the horses were brought up, and a squad, mounted, seemed to be waiting for Captain Smith. This mounted squad passed me on the same street on which the shooting occurred. As we passed out of the camp on our return to town one of the squad remarked: "Doctor, they will not get off as easy this time as they did when they shot the other soldier." He made a threat in relation to the town or citizens, the exact language I can not remember, to this effect, that "they will remember it." I saw Captain Smith with the mounted squad in front of Compton's store; talked with him there. He asked me which was Compton's store. They then knocked at the door and waked young Compton and Currie. He then sent young Compton for his brother Oscar, and told him to tell Oscar by reporting in an hour he would save a great deal of trouble. The squad then left, went up the street somewhere. After a while I heard them knocking at Wyatt's door, as it turned out to be. After the fracas there I heard whom I took to be Captain Smith give the order to "fall in." After this command to fall in was given it was but a few moments until I heard a squad coming down the street. They stopped in front of the Norris building; they fired two or three shots, and commenced beating on the doors to break in. They got in the Compton store, and made considerable noise, as pillaging; they then came out and went off up the street awhile. Some ten or fifteen minutes after this the same or another party returned into Compton's store, remained some time, when the alarm of fire was given; we then ran round in front of the store, when all was burning.

A short time before the alarm of fire was given I saw a man on horseback, who came from the direction of Clark's corner. He rode off in the same direction in a great hurry.

CHAS. STEVENSON.

Sworn to and subscribed in our presence.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

G. F. Giesecke and H. L. Giesecke, being duly sworn, saith: The morning after the fire, Saturday, 8th instant, a soldier came to our brewery after yeast. Either me or my brother asked him if that was not an awful fire. He said, "Yes; if it had not been for Captain Craig the whole town would have burned; if that soldier dies, it will burn." I told him that was a hell of an idea, to make a whole town suffer if you have one enemy. I saw the same man, and identified him before Colonel Mason's investigation. I was told his name was Turner, and belonged to Captain Smith's command. He had been coming after yeast for at least two weeks before the fire.

G. F. GIESECKE.
H. L. GIESECKE.

Sworn to and subscribed before us this 19th day of September, A. D. 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Edwin Arey, being duly sworn, saith: The first time I woke, the soldiers were at Wyatt's. They came out and formed out in front of Reddick's Hotel. I heard them drinking and praising the liquor; some one of the command said, "There goes the Major." They also bragged on the cigars. One of them said, "I tore the cloth off the billiard table; Major Smith ordered me to do so." Then Sergeant Howard formed them into line. Some ten or fifteen minutes before the fire I saw a man riding up the street; heard a soldier say, "Here comes Major Smith." When they were formed in front of the hotel I heard a man named Riley say, "Captain Smith said he did not care if we burned the town." Some one asked him, "What did he say, Riley?" Riley said, "Captain Smith says we ought to burn this town down." They came up then from the Reddick Hotel in the direction of the block that was burnt of the town. Major Smith rode up and asked them what they were doing. I could not hear the reply; this was fifteen minutes before the breaking out of the fire. I soon afterward heard them at Compton's store breaking open the door; in ten minutes from that time I heard the alarm of fire. I can not state the number of minutes exactly after the alarm of fire; I heard a soldier who was going down the street that runs parallel with Main street, say, "That's what you get by firing on our boys," the building then being on fire.

EDWIN A. AREY.

Sworn to and subscribed in our presence this 19th day of September, A. D. 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Tommy Stones, being duly sworn, saith: I was present at the soiree given by Messrs. Duke & Bro. on Friday evening, 7th instant. On hearing there was a party of soldiers attempting to create a difficulty, I went downstairs. After arriving at the foot of the stairs I saw Captain Wyatt trying to induce the soldiers to go away, saying to them that there were ladies upstairs and they did not wish any difficulty. I then saw one soldier draw his bayonet and wave it in the face of Wyatt; another drew his six-shooter. I then saw Wyatt leave; I don't know where he went. In a few minutes after Wyatt left one made an attempt to assault me by striking at me, but was prevented from doing so by another soldier. I was standing in the door by the side of Captain Dickie, and had not spoken a word to one of them. After this I went upstairs and do not know anything about the shooting.

T. STONES.

Sworn to and subscribed before us this 19th day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

C. R. Breedlove, being duly sworn, says: That he lives about two hundred yards from the public square at Brenham, just opposite Reddick's Hotel, between Main street and Sandy street, next street south of Main, Sandy street being the one usually traveled by the United States soldiers on going to and returning from town. That on the morning of the fire, at about 2 o'clock, he was sitting in the window of his bedroom when he discovered three or four soldiers collecting in the street just south of his house and seemed to have come very fast from the direction of the town. They paused for something like a minute; during the pause one of the solders remarked, "Now, d—n them, they are paid for shooting our men. We have set their town afire." They then went hurriedly on toward the soldiers' camp; I immediately looked toward the square and discovered that the town was on fire; this was about three hours after the shooting in front of the ballroom. From about twenty or thirty minutes after the shooting in front of Compton's store until the town was on fire, I heard soldiers on horses and on foot talking and swearing excitedly, passing up and down both Main and Sandy streets past his house. They seemed to be very mad.

C. R. BREEDLOVE.

Sworn to and subscribed before us this 19th day of September, A. D. 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Henry Currie, being duly sworn, on oath saith: On the night of the 7th of September, I was sleeping in Compton Bros.' store; between 12 and 1 o'clock I was awakened by a noise at the door; found it was Captain Smith and some ten or fifteen mounted men with him. He wanted young Compton; he saw Golding Compton; said he was not the one; he said to Golding Compton, "Tell your brother to report to me within an hour and he will save himself a great deal of trouble." I went with Golding Compton after Oscar Compton, who was at home; I, together with Lewis Compton, brought Oscar uptown; we found Captain Smith at Wyatt's saloon; the house had been opened, and I saw the soldiers inside tearing up and breaking things generally; Oscar Compton was taken to camp under charge of two guards; Lewis Compton and I walked on down the street; met some Federal soldiers, three I think; some conversation took place between us; I don't remember what it was; we went on down to Compton's store; he said he felt no uneasiness about the store and we need not sleep in it; we stayed there about five minutes; Compton went upstairs to see Dr. Stevenson; left me down in front of the store; in a few minutes the soldiers came on down the street; I started up the steps and stopped in behind the folding doors at the foot of the steps; the soldiers came up in front of the store and struck a match; I saw them plainly by the light; I thought I was in an unsafe place and started upstairs where Compton, Captain Onins, and Dr. Stevenson were; when I got up the head of the stairs one Yankee stepped to the foot of the stairs and fired up; six or seven shots in all were fired; I don't think but one was fired up the steps; in a few minutes the Yankees commenced breaking open Compton's store; they went in and broke up the show case; they were in the store about fifteen minutes or half an hour; they went away up Main street; as they left one said, "I guess we got satisfaction from the s—n of a b—h;" we all came down from upstairs; found Swearingen, Ludlow, and Dixon; I went round to the hotel thinking I would get a horse and go to camp and tell Captain Smith how his men were behaving in town; concluded it was useless to go; then came up to Mr. Dunning's store; Ludlow was with me; while at Dunning's heard men come down Main street to Compton's store; told Dunning the Yankees were back there again; Dunning and I started to camp to see Captain Smith, by the railroad, to avoid drunken soldiers on the street; before leaving, however, I saw a man on horseback ride up to the steps of the court-house square, in front of Chadwick's drug store; he rode back; and by the sound of his horse's feet suppose him to have gone round the square again; Dunning and I got to the depot, and thought it best to return; as we got halfway back from the depot I saw the fire burst out from Compton's store in a flash; I ran on up to the corner of Sledge's store; the Yankees were not more than fifteen feet from the front of the store; they ran off toward camp on the street past the post-office; I saw they were Yankees from the light of the burning house; the man on horseback came to the steps before the second party came to Compton's store; the fire blazed rapidly, as if it had been set by turpentine, kerosene, or something that burned quick, as the blaze was so large in such a short time; when I saw the light it was a bright blaze.

H. C. CURRIE.

Sworn to and subscribed before us this 20th day of September, A. D. 1866.

GEO. E. BURNEY.

J. D. GIDDINGS,

C. KYLE,

Committee.

D. C. Giddings, being sworn, says: That upon the arrival of Colonel Mason, on the 13th, to investigate the facts in relation to the disturbances in Brenham, on the 7th and 8th instant, and stated that, with his permission, he would represent the citizens in the examination of witnesses. This was granted. Colonel Mason conducted the examination, and, by his permission, we asked questions of some of the witnesses. From the manner in which this was received we felt hampered, and not at liberty to examine the witnesses as fully as we desired; and that on the morning of the 14th we stated, as we deemed, important testimony of two ladies, Mrs. Reddick and Mrs. Shurtleff, who were unable to appear at the court-house, and requested him to go to the Reddick Hotel and take the testimony of these ladies, telling him what we understood they would prove. This he, Colonel Mason, declined, saying that the investigation had proceeded far enough. We then had a conversation with Colonel Mason, in which we stated to him that if he had any doubt of the fact that the soldiers of Captain Smith's command did the burning, that we claimed the right of introducing other witnesses and corroborating testimony. This he did not positively refuse, but showed a decided unwillingness to proceed further with the investigation, stating that he had no doubt of our firm belief of the fact that the soldiers of Smith's command did the burning; that his opinion was not public property until it was made through the proper channel; that one copy would be sent to Governor Throckmorton and one to General Sheridan. We also stated to Colonel Mason that the statement

of one of the privates of Smith's company that citizens were in the habit of wearing the uniform of the United States Army in this place was false; that there was no truth in the statement, and that if he placed any reliance upon that statement we could call up any and every man in the town who would prove that no persons other than soldiers had ever worn the uniform of the United States Army here.

D. C. GIDDINGS.

I fully concur in the above statement, with the exception that I was not present when the examination commenced, but came in after one or two witnesses had been examined, and assisted Colonel Giddings, at his request, from that time until the close.

JOHN SAYLES.

Sworn to and subscribed before us this 19th day of September, A. D. 1866.

GEO. E. BURNEY,
C. KYLE,
D. C. GIDDINGS,
Committee.

Peter Diller, being duly sworn: I came up town with Mr. Sharp about half past 2 o'clock; came round to the Shipman House; we went over to my store; Sharp went down toward the Compton store; I remained at my own; I saw a man on horseback ride up to Clark's grocery from the oak tree on the square, back again to the front of the Compton store; I saw a man with gun and bayonet walking backward and forward in front of Compton's store; I could see them from the light in the store; I could hear some one in Compton's store breaking up boxes, making such a noise as parties make in kindling a fire; I was at the residence of F. B. Sawyer during the night of the 7th instant; heard them riding on the street parallel with Main street during the early part of the night. During the early part of the night the footmen passed on the street in front of Sawyer's. After I came up town I remained on the platform in front of my own store until the fire broke out.

P. DILLER.

Sworn to and subscribed before us this 20th day of September, A. D. 1866.

GEO. E. BURNEY,
C. KYLE,
D. C. GIDDINGS,
Committee.

I. M. Onins, having been sworn, says: On Friday night, 7th instant, about 10 o'clock, while sitting in my office, on the west side of the square, I saw a party of freedmen pass on a run, and I distinguished the voice of Sam Bassett, who seemed to be angry and excited, and was cussing the Yankees, and swearing that he would never run from them again; immediately behind the freedmen, within twenty or thirty yards, a soldier followed, calling to Sam to "Stop," to which Sam replied, with an oath, that he had been running from the Yankees, but that he would run no farther; they soon passed out of sight and hearing. In a very short time after this I heard five or six pistol shots, which, from the report and flash, I presume were in front of the Shipman Building, where a soiree was given by the Dukes; just at this time (while the shots were being fired) the Austin stage passed by toward the post-office, and I followed it to get my mail matter. As I was leaving the post-office the postmaster, Mr. Allen, informed me that two soldiers had been shot, and that Captain Craig was looking for a physician to dress their wounds. I informed him that Dr. Stephenson would be more easily found than any other, and requested him to accompany me to Dr. Stephenson's room; he did so, and the doctor, when informed of the accident to the soldiers, repaired to the wounded soldiers, who were in the street some two hundred yards from the court-house, in the direction of the Federal camp. After looking at the wounds I withdrew, leaving Drs. Key and Stephenson and some others with the wounded men and returned to my office. Some time after 12 o'clock I heard Dr. Stephenson return to the drug store, immediately under my office, and I requested him to come and remain with me. He did so, and among other things informed me that he had just left the Federal camp, and there was much excitement in camp, and that Captain Smith had called out his company and was coming down town. I saw a squad of mounted men coming down Main street; they passed to the Crumpler Hotel and halted. In ten or fifteen minutes the squad passed up the street and halted between the courtyard and Norton's store some minutes; they then returned down the street and halted in front of the Norris Building and in which my office was located, and Captain G. W. Smith knocked at the drug-store door. Dr. Ste-

phenson, one of the proprietors of the store, went to my front window, directly above Captain Smith and his squad, and called to the parties. Captain Smith inquired for "Compton's store," and was informed by Dr. Stephenson that Compton's store was immediately south and adjoining the drug store. Captain Smith then knocked at Compton's door, when Henry Curry came to the door. Captain Smith directed Shepard and Compton to report to him. He was informed by Curry that Shepard was not in the store, and that one of the Compton boys (Golden) was the only party with him in the store. The captain then directed Compton to come out, who did so, and, after some conversation, was directed by Smith to put on his clothes and order his brother Oscar to report to him on the streets within an hour. Captain Smith then withdrew with his men up Main street, and in a short time, a half hour probably, I heard a noise up the street as if from a party breaking down doors. I thought at the time the noise was occasioned by the soldiers breaking into Wyatt's house. I heard them talking distinctly, and also heard, after the noise from knocking down doors subsided, some one form the men and give other commands to them. A very short time after I heard the orders given I saw a small party of soldiers coming down Main street on foot. I did not count them, but suppose there were about six. One or two of them passed between Wilkins's and Levinson's stores, directly under my north window, and the balance of them passed in front of the Norris Building. They fired one shot up the stairway into the building, threw rocks or sticks into the front office over Compton's store door, and fired some five or six shots. They then battered down Compton's store door. One soldier reloaded his gun and remained at the door while this party of soldiers was shooting and breaking into Compton's store. Myself, Dr. Stephenson, Lewis Compton, Henry Curry (who came in while the shooting was going on), and P. H. Swearingen were in my office within five or ten steps of the soldiers, where we could distinctly hear everything that was said. I suppose they remained fifteen or twenty minutes and withdrew up Main street, singing boisterously. On their departure we came down upon the street; found Compton's door broken down. We then separated for different purposes—some to procure arms, some to give alarm to citizens, and I to inform Captain Smith of the depredations of his men. I started to his camp by way of the railroad, but had not proceeded far when I stopped, thinking that the soldiers would not return during the night, and I returned to the public square. When I reached Ralston's shop I saw a party on horseback coming down the street by the post-office, but did not notice in what direction he went. I saw a light in Compton's store, and walked to within ten or fifteen steps of the door, when I saw some one coming out of Dr. Sledge's with a lantern, and I walked across to see who it was. I found Henry Curry, John Dunning, Henry Ludlow, and Sledge's clerk or porter standing by Dunning's store. Curry and myself sat down between Dunning's and Sledge's stores, about forty or fifty steps from Compton's door, and immediately in sight of it. We saw the light in the house and heard parties breaking up plank, but I supposed at the time Compton was in his house repairing his door. I had sat there some five or ten minutes with this impression and did not suppose the parties at Compton's were soldiers until they came to the door. I then distinctly heard their voices, and knew they were soldiers. Having no arms either to attack the burners or defend myself, I withdrew back of Ralston's. In a moment I saw smoke issuing from the roof of Compton's house, and I at once ran to my office and gave the alarm, seeing no one near the house.

After Captain Smith, with his mounted men, left Compton's store, about 1 o'clock, the next party of soldiers who came down the street as far as the west side of the square was the party who broke down Compton's door and fired shots into and about the building. After this party of soldiers withdrew it could not, I think, have been more than fifteen or twenty minutes before (when I came up from the railroad) I found a party in Compton's store, whom I knew, when they came out, to be Federal soldiers.

The fire, which originated in Compton's store by these soldiers, destroyed entirely the following buildings: One house owned by T. B. Campbell; one storehouse owned by J. A. Randle and occupied by J. B. Wilkins; two storehouses owned by J. T. Norris and P. W. McNeese and occupied by Hellman & Levinson and J. L. Watkins & Co.; one storehouse owned by J. T. Norris and occupied by Compton & Bros.; one house owned by Pressley & Roff; one shop occupied by N. Campbell; one house owned by V. Little; one house owned by Pettus & Williams.

I lost by the fire between two hundred and three hundred valuable books, law and miscellaneous, and nearly all my office furniture, together with valuable papers, all of which were entirely destroyed and consumed by the fire.

W. N. ONINS.

Sworn to and subscribed before us this 21st day of September, 1866.

J. P. GIDDINGS,
C. KYLE,
GEO. E. BURNEY,
Committee.

Dr. J. T. Norris, being sworn, saith: I was called to Captain Smith's camp on the night of the 7th instant to see the wounded man, Gallagher; was there at the time Captain Smith left his camp to go to town to arrest, as he said, some men who had shot his soldiers. It was not earlier than 12 o'clock at night when he left to come to town. I remained there for a half an hour after he left. I then went home, went to bed, and was waked up by the alarm of fire in town. I visited the camp on the morning of the 8th, as usual, and Smith told me that he had very little doubt but that his men set fire to the town, and that he further had a notion to hold the citizens responsible for the delivery of the men who shot his soldiers.

J. T. NORRIS.

Sworn to and subscribed before us this 21st day of September, 1866.

J. D. GIDDINGS,
C. KYLE,
GEO. E. BURNEY,
Committee.

Lester Clark, being duly sworn, saith: On the night of September 7, 1866, I was at the door of the colored ball, and while there there were three or four Federal soldiers came there and two went in, and the colored man at the door demanded pay; they said they never had to pay anything; I then left and went to bed; I slept on the upper gallery of the Reddick Hotel; I saw seven or eight cavalymen pass toward their camp; afterward I saw about twenty-five infantry come up to Reddick's Hotel; they halted a few minutes and knocked glasses; talked about drinking; they also lit cigars; one soldier said, "The d——n town ought to be set on fire;" after that I recognized the voice of Sergeant Howard say "Fall in," and to count off; and they counted off one, two—one, two; and he said "Will we right or left face?" and part of them left-faced and marched toward the court-house; they came back and several went back toward the court-house; I soon heard the breaking in of doors, and in half an hour the cry of fire was given in the direction of Compton Bros.' store.

LESTER CLARK.

Sworn to and subscribed before us this 21st day of September, 1866.

J. D. GIDDINGS,
C. KYLE,
GEO. E. BURNEY,
Committee.

Dr. H. Hauer, being duly sworn, saith: The morning after the fire that occurred on the night of the 7th instant, I went down to Captain Smith's camp for the purpose of procuring the release of Tommy Lusk; I saw the captain in his tent; I requested him to release Tommy Lusk, and gave him my reasons for doing so; he refused positively, giving as his reasons for not doing so that he kept them as hostages, expecting the camp to be attacked by citizens; he stated that he would have one of these two boys shot for every one of his men who was wounded; and he further stated that if any of his men were killed, he would not leave a piece of lumber in town, for the life of one of his men was more valuable to him than the whole town.

H. HAUER.

Sworn to and subscribed before us this 21st day of September, 1866.

J. D. GIDDINGS,
GEO. E. BURNEY,
C. KYLE,
Committee.

John Simpson, colored, being duly sworn, saith: I was at the stable near the blacksmith shop, just across the street from the block of buildings that was burned; I heard the guns fired, and heard them break open the house; I knew they were soldiers; they had guns, such as carried by soldiers; I saw the fire; some ten or fifteen minutes after the house was broken open the fire broke out; the party that broke open the house then left, and was turned back by a man on a gray horse; the man that rode the gray horse was the same that usally goes with Major Smith; I know the horse was the same he rides with him; soon after they returned I saw the fire break out; I saw

the mounted man by the light of the fire; the soldiers went off on the street that runs past the post-office.

his
JOHN + SIMPSON.
mark.

Sworn to and subscribed before us this 21st day of September, A. D. 1866.

J. D. GIDDINGS,
GEO. E. BURNEY,
C. KYLE,
Committee.

Personally appeared before the undersigned committee the following-named citizens of said county: Alex. Campbell, clerk of the district court; S. S. Hosea, clerk of the county court of Washington County; John Stamps, John P. Key, John Ewing, P. W. McNeese, J. P. Pressly, who, being duly sworn, saith: That all the citizens were disarmed of all army guns soon after this place was occupied by Federal soldiers last year, and the citizens have not been since either permitted to keep or carry arms of that kind; and that we all reside in said county, and have for the last year; and we have never seen any citizen dressed in soldiers' dress, or carry army guns; and we can safely say that the usual dress of the United States soldier has not been worn by citizens in his section at any time.

ALEX. CAMPBELL,
Clerk District Court Washington County.
S. S. HOSEA,
Clerk County Court Washington County.
JNO. STAMPS.
JNO. EWING.
JNO. P. KEY.
P. W. MCNEESE.
J. P. PRESSLY.

Sworn to and subscribed before us this the 21st day of September, 1866.

J. D. GIDDINGS,
C. KYLE,
GEO. E. BURNEY,
Committee.

We examined the goods handed us by Judge Shepard on the morning after the fire, and recognized them as our property, taken from our stores on the night of the 7th inst.

COMPTON BROS.
FRANCIS D. ALLEN.

Sworn to and subscribed before us this 21st day of September, 1866.

J. D. GIDDINGS,
C. KYLE,
GEO. E. BURNEY,
Committee.

Record No. 2.

Sergeant Skinner, Company E, Seventeenth Infantry, being sworn, saith: After Captain Smith went down to Crumpler Hotel, he called for Captain Wyatt and young Lusk, and I believe some other man's name was mentioned; I forget now whether there was or not; and the porter and clerk said Wyatt was not in; and the porter said he did not know such a man as Lusk; I was ordered by Major Smith to dismount, go up and examine Wyatt's room, and see if he was there, and if he was to fetch him down; I went to the room but did not find him; came down and reported to Major Smith that he was not to be found; he told me to go to the porter and try and find young Lusk; the porter showed me his room, and I found him in it; I took him to Major Smith, and he gave him in charge of two men, to be brought to camp; he then told the proprietor, or clerk, I am not certain which, that when those men came in, Wyatt and others, to tell them to report to him in an hour; if they did not, that it would cause trouble to them; we left the hotel and went to Compton's store; we rapped four or five times, and after a while some person came to the door; Major Smith asked him if young Compton was there, or Shepard: that he had heard that Shepard had

stopped here of late; the reply was that neither was there, but Compton's young brother came to the door; Major Smith asked him where his brother was; he told him that he believed he was at home; Major Smith told him to go home and tell him to come to the store, and that he would give him one hour; in the meantime he would leave a guard; that Compton would give himself up; we went away; went up to the upper part of town, and there found the company that had come from camp; we marched around town for some time, I can't tell how long, and went down to a saloon, I believe kept by Wyatt; Major Smith ordered a sergeant and four men to go and try the door of this saloon, and if it was not open to burst it open and go in and find Wyatt; in the meantime the company, in fact the biggest part of them, had got into the saloon; after Major Smith thought they had time enough to look for this man, and hearing quite a noise inside the saloon, he ordered them out; they came out and the company formed; major told me to go down to Compton's store and have the guard withdrawn from there, and join the company, and proceed to camp with the company; in the meantime the major and the rest of the escort started for camp; after I had given my orders to the noncommissioned officer in charge of the guard, I joined the escort and came to camp; we put our horses up; after the horses were in the stable I found there was one missing; afterward the horse came to camp without a rider—the missing horse; I came to my quarters; I had been there some time, and I was called, and was ordered to get the escort ready, that there was a fire; I saw Major Smith at his tent; I went to the stable and got the horses ready, and the order was countermanded; I then went to my quarters and went to bed; this occurred on the night of the 7th instant. It was about ten o'clock when I was called; the company formed very near the saloon, after being ordered out, and I was ordered to have the guard withdrawn from Compton's store; I do not know the damage done; I was not off my horse; there was a squad on foot besides the one at Wyatt's; my squad was formed at Wyatt's, and I was ordered to join guard; I rode on, joined Major Smith, and came to camp; did not form in front of Reddick's Hotel, that I know of; might have passed around bottles to drink; no other detail was made by Major Smith to arrest Wyatt; I believe all the men returned with the company; I know of no details made to return to town; Sergeant Howard was in charge of the guard left at Compton's; I know nothing of the breaking of Compton's store; never heard a man say anything about breaking into Compton's store; was about twelve, or a little after, when we left for camp; had no means of knowing the time; I heard no firing into Compton's store; heard no guns after returning to camp; one man, I think, named Murphy, rode the riderless horse that returned to camp; it was about half an hour, perhaps, more or less, after I returned to camp, that the horse returned; Murphy did not come with the horse; I did not see him if he did; Murphy is not now in camp; the first sergeant stated that all men were in camp; I do not know that they were; I was not called up at any time between the time I returned to camp at first and when called by Major Smith, and ordered to get the horses; I heard the major order these men to go into Wyatt's and look for Wyatt, and he gave no orders to break anything in the saloon; I could not tell that any footmen were left in town; I rode on ahead with Major Smith; I would have heard any orders Major Smith might have given, as I was very near him all the time; I did not know of any liquors and anything else being brought out by the men; I believe there was some liquor among the men; the orders are that no horses leave the stable without Major Smith's or my orders; I have charge of the stables, and the orders are given every morning from one sergeant of the guard to the other that no horse in the stable should leave it, except by Major Smith's or mine; to the best of my knowledge and belief, Major Smith's horse was not out of camp after Major Smith returned, which was about 12 o'clock; there have been no cases where men have taken horses before; the men who deserted and took the horses were on guard at the time.

WM. SKINNER,
Sergeant Company E, Thirty-fifth Regiment.

Sworn to and subscribed before us this 20th day of September, 1866.

J. D. GIDDINGS,
C. KYLE,
GEO. E. BURNEY,
Committee.

Mrs. M. F. Davis, being duly sworn, saith: After Captain Smith returned to camp, he was not out of my sight five minutes; on the night of the 7th instant, Captain Smith returned to camp, I think, about half past 12; between half past 12 and 1 the footmen came into camp; I remember, by looking at my watch, it was half past 12 when my brother returned; I did not hear of anyone going out and returning, between the return of the soldiers and the fire, to town; the wounded men were kept at this camp;

the men were not formed, or roll called, after the return to camp; it was some two hours, perhaps three, after the footmen returned until I observed the fire; I do not know who gave the first notice of the fire; the flames seemed to go in puff; Major Smith was not out of camp after he returned with the men until 8 o'clock next morning; Major Smith was on horseback; I suppose his own horse; it is not often that anyone else rides his horse; I did not hear any soldiers returning to town after they returned to camp the first time.

Mrs. M. E. DAVIS.

Sworn to and subscribed before us this 20th day of September, A. D. 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Samuel Hawkworth, private Company E, Seventeenth United States Regulars, being duly sworn, saith: I was on guard on the night of the 7th instant; between the time of Major Smith's return from town and the breaking out of the fire I was posted on the line near Major Smith's tent; my orders were strict from the major and the corporal to let no person nor no soldier pass without halting or challenging him, and calling for the corporal of the guard; no soldiers passed out or in by my beat; none could have passed without my seeing them; the guard was increased after the return of the company into camp; two posts were added, four altogether; the two additional posts were on the opposite flanks of the camp; I was on post between six or seven hours; I went on post about 10 o'clock, came off half past 4 in the morning; Major Smith was not out of camp from the time he returned with the patrol; while I was on post I saw Major Smith very near all the time sitting at the end of the tent with Mrs. Davis; Major Smith nor anyone else could not have ridden to town without my knowledge; Major Smith went with the patrol first between quarter past 10 and 11 o'clock; were absent from an hour to an hour and a half; between forty and fifty men went out; about four sick, besides the guard, six in number, were left; I saw the company return; can not say how many returned; think all returned; no one went back to town; I discovered the fire between three and four; I gave the alarm here myself; I saw one horse without a rider come in about twenty minutes after the others; John Murphy rode the horse that came in without a rider; I saw Murphy in camp at 2 o'clock that night; don't recollect seeing Riley and Mackey; no man can get out of camp when the extra guard is on without conniving with the sentry; I heard no threats about burning the town; but one detail was made that night.

his
CHAS. + HAWKWORTH.
mark.

Sworn to and subscribed before us this 20th day of September, A. D. 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Corporal John Zetterberg, Company E, Seventeenth Infantry, sworn, saith: I was corporal of the guard on the night of the 7th instant; my instructions were to let no soldiers out of the camp; two additional posts were added after Captain Smith's return to camp; the sentry at the stable was instructed to let no horses be taken from the stable, except by order of Captain Smith or Sergeant Skinner; and he also gave orders to the sentinel to let no soldier leave the camp; I was not in town with the major; they left here between 10 and 11 o'clock, and returned between 12 and 1; I saw the major and his company when they returned; the major came in first with the horsemen; in ten or fifteen minutes the footmen came; I do not know that any soldiers left camp after they came from town; I never heard any of the men say anything about burning the town; I never heard any of the soldiers say that any men were out that night.

JOHN ZETTERBERG.

Sworn to and subscribed before us this 20th day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Private Arthur Nevin, Company E, Seventeenth Infantry, being sworn, saith: I was one of the mounted men who went with Major Smith to town on the night of the 7th instant; Major Smith told the clerk at the Crumpler Hotel that if the men were not given up they would have trouble; I brought the last prisoner to camp; he did not tell me to shoot him if he ran; I was not in town after that; I came to camp and went to sleep; don't know that any men went back to town; was not present when Wyatt's saloon was broken; I have not heard any of the men make threats about burning the town.

ARTHUR NEVIN.

Sworn to and subscribed before us this 18th day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Charles Dettern, being duly sworn, saith: I am Major Smith's orderly and servant; Major Smith was in camp after his return until the fire broke out; Major Smith could not have left without my knowledge, I don't believe; I saw the captain nearly every ten minutes, from nearly 10 o'clock until 7 o'clock in the morning; the captain's saddle is kept in front of his tent; it was left there after he came back with the patrol; it was not removed until morning again; Captain Smith halted the company in front of the camp and took some liquor, or something, from the men as they came in, and I was ordered to take it in underneath the fly; some of the liquor was given to the orderly sergeant; don't know what he did with it; I did not accompany Major Smith up town that night. The company went up town between half after 11 and quarter to 12; the entire command did not go up; some guards were left here; about twenty-odd men went up, horseback and foot; I should judge they were gone from three-quarters of an hour to an hour; Major Smith came in with the cavalry squad; it was some fifteen minutes before the infantry came in; I did not go to bed that night; was up with a sick friend; was at the major's camp every ten or twelve minutes; I believe Major Smith laid down at that time; Mrs. Davis and Captain Craig were there; did not hear any soldier go up town again; heard no threats about burning the town; did not see Murray, Mackey, Murphy, or Riley in camp that night; I had no watch, but went by the clock in the sergeant's tent; I saw it every ten or fifteen minutes; I do not know really what became of the liquor; I believe it was turned out.

CHARLES DETTERN.

Sworn to and subscribed before us this 20th day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Lecroit, private, Company E, Seventeenth Regulars, being duly sworn, saith: I belong to Major Smith's command; all the company was in town the night of the 7th instant; I was on foot; I know where Reddick's Hotel is; all the company fell in on the street that runs past Wyatt's and Cook's saloon; no portion of the company went down after we had formed; I heard no shooting down town; company returned to camp about 11 or 12 o'clock; I do not know that all the men came back to camp.

G. LECROIT.

Sworn to and subscribed before us this 21st day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Michael Daley, private in company E, Seventeenth Regulars, being duly sworn, saith: I was in town on the night of the 7th instant; I know where Reddick's Hotel is; we stopped close to the hotel; we formed no line; rested there; know of no detail made to go down town; think all the men returned to camp; think we counted off "one, two;" don't recollect Sergeant Howard's saying right or left face; Sergeant Howard returned with us; I heard no shooting; went to sleep; was awakened by the sentry;

I think all the men returned; I can't tell whether the roll was called; I suppose the roll was called; I did not hear Mackey or Riley say the town was burned or should be burned; I was sick and weak and retired to bed as soon as I returned.

his
MICHAEL + DALEY.
mark.

Sworn to and subscribed before us this the 21st day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Henry Eiten, private, Company E, Seventeenth Regulars, being duly sworn, saith: I was with the infantry that went to town on the night of the 7th; was present when the barroom was broken open; company was formed and marched up to the hotel; the order was given to right face; marched to camps, counted off "one, two;" did not take drink there; some of them lit cigars in front of the hotel; saw some liquor; it was taken away by Major Smith; I heard Major Smith give orders to Sergeant Skinner to withdraw the guard and return to camp; heard of no detail made to look farther for Wyatt and others; returned to camp about 12 or half-past 12 o'clock; think all the men returned; am almost sure they did; was one of the last files; we halted opposite the hotel.

HENRY EITEN.

Sworn to and subscribed before us this the 21st day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Peter Fredericks, Company E, Seventeenth Infantry, being duly sworn, saith: I was with the company in town on the night of the 7th instant; was not with the command when any houses were broken into; I do not know where Wyatt's saloon is; I was one of the guards in front of Compton's store; was released by one of the cavalymen; got to camp when the cavalry were unsaddling their horses; I do not know that there were houses broken into or searched; I belonged to the infantry; went to town at 10 p. m.; was stationed as a guard near the printing office; was on three-quarters to an hour; I joined the company in front of the meat market; I don't know that the company halted in front of Reddick's Hotel; we went direct to camp; heard no firing; infantry came some twenty minutes after the cavalry; do not recollect that the roll was called.

PETER FREDERICKS.

Sworn and subscribed before us this 21st day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Private Adolf Maas, Company E, Seventeenth Infantry, being duly sworn, saith: On the 7th of this month I was on daily duty as hostler. When the captain came home with the men I was at the stable; I unsaddled the horses by order of Captain Smith; his horse was not out of the stable after he came from town until the fire broke; then the horses were saddled again, which order was countermanded, and the horses put back in the stable; there were eight horses saddled to go to town with Major Smith the first time; I saw no horse come in without a rider; the horses came in together; I did not go to sleep at the stable; I came to my quarters about 4 o'clock and went to sleep; the horses came in an hour and a half or two hours before the fire.

ADOLF MAAS.

Sworn to and subscribed before us this 18th day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

Major G. W. Smith, Seventeenth Infantry, being duly sworn, saith: On the night of the 7th instant, as I suppose about 10 o'clock, I was awoke by a negro or two coming to my quarters; at the same time the sentinel on post sung out, "Gallager is shot." Those two negroes stated, while I was still in bed, that two of my men had been shot near the white people's ball in town; they gave me the names of the following parties: Messrs. Wyatt, McAllister, Shepard, Lusk, and Compton, as being implicated in the affair; they were sure Wyatt and McAllister had fired at the soldiers; one of them stated that Lusk and Compton had also fired; the other was not so sure about it. I then got up and dressed, ordered the sergeant to have the company fall in, a detail of men to be mounted. In the meantime Captain Craig came in with Drs. Key and Norris; very soon the man that was dangerously wounded was brought in; the other came in; I should think by this time it was half past 10 o'clock. After seeing the wounded man properly cared for and under the charge of the doctor, I, with Captain Craig, Sergeant Skinner, and, I think, six men mounted, started for town for the purpose of arresting the parties connected with the shooting of my men; Sergeant Howard followed on by my order with the balance of the company not on other duty; I ordered him to halt in front of Shipman's new building and await further orders; I then went with my detachment and Captain Craig to the Crumpler Hotel, got up the porter and then the clerk, inquired for Wyatt and McAllister; he did not know whether Wyatt was in or not, so I ordered his room to be searched; did not find him; I then inquired for Lusk, sent for him, and got him; sent him under charge of two men to camp, giving the order if the man attempted to escape or get away to shoot him; I then told the clerk of the hotel if these parties came in or he saw them—I might have mentioned the names of Wyatt and McAllister—that it would save them trouble if they gave themselves up; if they did not they would probably regret it; I would give them an hour. I then went to Compton Brothers' store; after rapping several times two persons came to the door; I inquired for young Compton and John Shepard; was told that neither party was there; I told a young man then, who said he was a brother of Compton, and who stated to me that his brother was at home, that I wanted him and that I would wait for him at the store and that I would leave a guard; he started for his brother, as I suppose; I then sent someone of my men to the company in front of Shipman's building for a guard of two or three men to be sent down there to wait as a guard for these parties; I then went to Mr. Shepard's office, or what I had supposed to be his office, rapped on the front door; no one replied, no one came to the door; I then went up to the company, saw that this detail had been made, went back in rear of this office, and rapped on the back door; I succeeded in raising no one inside; I then went back to the company, the hour being, as I supposed, up that I had given Wyatt, and seeing or hearing nothing of him, I went myself with my detachment, and Captain Craig ordered the company also to march down in front of his saloon; I then ordered the noncommissioned officer in charge of the company to try the door; if they could not get in, to break it down, to go inside, and search the place for Wyatt; the night was damp, and it took some time for them to get a light; I saw they were a long time in getting a light; I halloed to them to hurry up, to do no damage; giving them sufficient time to make the search, I ordered them out and to fall in, which order they obeyed, not finding the party they went in search for; I did not go inside myself, because I wanted to see what was going on outside, and to see if any one escaped by any other entrance, and being with the mounted detachment; the company fell in as ordered in front of or near Wyatt's saloon; at this time young Compton was delivered over to me by his brother; I sent a detail of two men to camp with him; I then ordered the noncommissioned officer in charge of the company to march it to camp; started on myself to camp with my mounted detachment and Captain Craig; down near Reddick's Hotel I halted, sent Sergeant Skinner, who was with me, to go back to the company, which was just about turning the corner, coming on to Main street, to halt and wait for this guard which had been left at Compton's store, Sergeant Skinner going to notify the guard to join the company, then on its joining to proceed to camp at once; I then came on to camp; in about, I should think, fifteen minutes the company came into camp; as they came up I halted them, saw they had some two or three jugs which I ascertained contained liquor, which I took from them; told my orderly to put them under the fly in front of my tent; ordered the company to their quarters; I then gave instructions to the sergeant and to the sergeant of the guard to use every precaution to prevent the men from going to town again, and allow no soldier to pass in or out; I afterward ascertained that the sergeant did double the posts; there was no extra detail for guard, but the men stood twice the time they are accustomed to stand; one man to my knowledge stood on post over six hours without being relieved; from this time until about 7 o'clock next morning I was not out of the limits of my camp, and, to the best of my knowledge and belief, my horse was not out of the stable during this time; at about, I should think, half past three o'clock I heard the sentinel along on the flank of my quarters remark he thought there must be a fire in town, or words to that effect; I came outside and sung out toward the stable to saddle the horses, thinking I would go to town; I, however, changed my mind and ordered

the horses unsaddled; the next morning I ordered my servant to turn out some portion of the liquor and throw it away; sent the balance to the sergeant, and for him to dispose of it; aside from a jug of alcohol or gin there was not half a gallon of liquor; I used none of this liquor myself. The roll was not called to my knowledge after the return to camp; I have no reason to believe that the company did not all return; the sentinels are never mounted.

GEO. W. SMITH,
Captain, Seventeenth Infantry, Brevet Major, U. S. A., commanding post of Brenham.

Sworn to and subscribed before us this 21st day of September, 1866.

GEO. E. BURNEY,
J. D. GIDDINGS,
C. KYLE,
Committee.

A.

LAGRANGE, September 16, 1866.

Colonel MASON, *Commanding, Galveston:*

The undersigned joint committee, appointed by the legislature of this State to investigate the burning of a portion of the town of Brenham, will be at said town on Tuesday, 9 a. m., the 18th instant, to make said investigation, and respectfully request you to be present, or send some suitable officer to be present during said investigation.

Respectfully,

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

B.

HEADQUARTERS POST OF BRENHAM,
Brenham, Tex., September 19, 1866.

GENTLEMEN: I am requested by Colonel Mason to deliver to you the inclosed communication from him, in reply to your telegram of the 16th instant.

I am, gentlemen, very respectfully, your obedient servant,

GEO. W. SMITH,
Captain, Seventeenth Infantry, Brevet Major, U. S. Army, commanding, Brenham.
Messrs. BURNEY, KYLE, and GIDDINGS.

HEADQUARTERS POST OF GALVESTON,
Galveston, Tex., September 17, 1866.

GENTLEMEN: I have the honor to acknowledge the receipt of your telegram of the 16th instant. As I have just returned from Brenham after a conscientious and searching investigation of the whole affair, I hardly deem it necessary to be present during your investigation. While I regret that I was not so fortunate as to have had your presence at my investigation of last week, I desire to express to you my heartiest thanks for your invitation of my cooperation in your investigation, and to beg leave to hope that when your inquiry is ended the results we shall have deduced will coincide.

I am, gentlemen, very respectfully, your obedient servant,

E. C. MASON,
Captain, Seventeenth U. S. Infantry, and Brevet Colonel, U. S. Army.
Messrs. BURNEY, KYLE, and GIDDINGS.

C.

Privates John M. Murphy, John Mackey, Patrick Murray, and James Riley, Company E, Third Battalion, Seventeenth Infantry, deserted from this company on the night of the 17th day of September, 1866.

Corporal Charles Liehenfeldt, Privates John Wager, Manuel Quintand, William

Pfifer, Company E, Third Battalion, Seventeenth Infantry, deserted from their company on the night of September 19, 1866.

Sergeant Daniel E. Morrell and Corporal Walter W. Brown, Company E, Third Battalion, Seventeenth Infantry, sent to Galveston to general hospital, by order of Dr. Norris, September 17, 1866.

Sergeant Daniel D. Howard and Privates George Lyrus, Edward B. Robbins, Hugh McCann, W. H. Ferry, absent under orders in pursuit of first list of deserters.

GEO. W. SMITH,

Captain, Seventeenth Infantry, Brevet Major, U. S. Army, commanding, Brenham.

D.

The State of Texas to Captain George W. Smith, commanding post at Brenham:

You are hereby commanded that you bring with you the bodies of Sergeants Howard and Skinner, Privates Turner, Murray, and Mackey, United States soldiers, before the undersigned committee, appointed by the legislature of the State of Texas, to investigate the facts and circumstances connected with the recent burning of a portion of the town of Brenham, now in session at the court-house in the town of Brenham, instantler, then and there to testify as to such matters concerning which they shall be interrogated before said committee.

Herein fail not, under the penalties of the law. Witness our hands this the 18th day of September, 1866.

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

E.

BRENHAM, September 18, 1866.

CAPTAIN: The committee appointed by the legislature of this State to investigate the facts connected with the burning of a portion of the town of Brenham deem it important to a full and fair investigation of the matter that certain soldiers under your command should be examined as witnesses, and herewith we send a writ of *habeas corpus* for the purpose of enforcing their attendance. We assure you that the men shall not in any way be interrupted or interfered with by others, and that their personal security shall not be endangered.

You are requested, if you see proper, to be present at their examination.

Respectfully,

GEO. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Captain GEO. W. SMITH.

F.

HEADQUARTERS POST OF BRENHAM,
Brenham, Texas, September 18, 1866.

GENTLEMEN: A former demand for the bodies of certain soldiers of my command met with the reply that "I know of no change in the military status of this State." By this I mean that I have received no orders for any change relating to the civil and military authorities. This matter has been referred to the district commander for his instructions and orders. Up to this time I have received no orders, and I do not feel that I am at liberty to turn over any men of my command without an order from my superior officer in command of the district.

I am, sirs, very respectfully, your obedient servant,

GEO. W. SMITH,

Captain Seventeenth Infantry, Brevet Major U. S. Army, Commanding Post.

To INVESTIGATING COMMITTEE, Brenham, Texas.

G.

BRENHAM, *September 18, 1866.*

SIR: Yours of this date was duly received. The object of the process sent to you was to procure the testimony of the persons named. We do not contemplate turning the parties called as witnesses over to the civil authorities, and if permitted to appear before the commission they will be protected and permitted to return to their command soon as examined. Our object is to make a full and thorough examination into the facts of the disturbance and burning of this place.

Your obedient servants,

G. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

Captain G. W. SMITH, *Commanding Post at Brenham.*

H.

HEADQUARTERS POST OF BRENHAM,
Brenham, Texas, September 18, 1866.

GENTLEMEN: I have the honor to state, in reply to your communication concerning the investigation now being held, that I have been informed by the district commander that it is not necessary for me to appear, as one investigation has already been made.

I am, sirs, very respectfully, your obedient servant,

GEO. W. SMITH,
Captain Seventeenth Infantry, Brevet Major U. S. Army, Commanding Post.

The INVESTIGATING COMMITTEE, *Brenham, Texas.*

I.

BRENHAM, *September 18, 1866.*

Colonel MASON, *Commanding Post of Galveston:*

The committee appointed by the legislature to investigate and report upon the recent disturbances and fire at this place are now ready to commence; would be pleased to have you present. Please order Major Smith, post commander, to send before the commission such men belonging to his command as the committee may wish to examine.

Respectfully, yours,

G. E. BURNEY,
C. KYLE,
J. D. GIDDINGS,
Committee.

J.

GALVESTON, *September 18, 1866.*

To Messrs. BURNEY, KYLE, and GIDDINGS:

I can not attend your investigation, as I have to leave for New Orleans to-day. I have no authority to give Major Smith the orders you desire.

E. C. MASON, *Brevet Colonel.*

O

FRANCIS MILLET'S WIDOW.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany House Res. No. 268.]

The Committee on War Claims, to whom was referred the bill (H. R. 647) for the relief of Francis Millet's widow, submit the following report:

This is a claim for stores and supplies alleged to have been furnished United States troops during the late war by Francis Millet, now deceased, late of Henderson County, Ky. Claim stated at \$2,905.

The evidence in support of this claim is in the form of ex parte affidavits, and your committee is of the opinion that the claim should be referred to the Court of Claims for a finding of facts under the terms of the Bowman and Tucker acts; and your committee report herewith a resolution to that effect and recommend its passage.



THE UNIVERSITY OF CHICAGO
IN THE CITY OF CHICAGO

PHYSICS AND CHEMISTRY

THE UNIVERSITY OF CHICAGO
IN THE CITY OF CHICAGO

THE UNIVERSITY OF CHICAGO
IN THE CITY OF CHICAGO

REPORT

The following report was prepared by the
Department of Physics and Chemistry
of the University of Chicago
in the City of Chicago
for the purpose of
presenting the results
of the researches
conducted during the
year 1911-1912
under the direction
of the Department
of Physics and Chemistry
of the University of Chicago
in the City of Chicago

ELIZABETH FULWILER.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 648.]

The Committee on War Claims, to whom was referred the bill (H. R. 648) for the relief of Elizabeth Fulwiler, submit the following report:

Mrs. Fulwiler in her petition alleges the following as the facts in this case:

In October, 1864, she was the owner in her own right and had peaceable possession of a two-story brick storehouse and frame buildings attached thereto, situated on the east side of Main street between First and Second streets, in the central business part of the city of Henderson, Ky. She was then and has been ever since the widow of Jacob H. Fulwiler, who died August 18, 1863, leaving her with several small children. The said building was at the time thoroughly fitted up with shelving, counters, etc., for use as a storeroom, and was in demand at a good monthly rental. In said month of October, 1864, the said buildings and appurtenances were taken possession of by the Third Battalion of Kentucky State troops, then under command of Maj. Wm. H. Shook, and in the service of the United States in the war of 1861-1865. The said buildings were used by the soldiers from October, 1864, to April, 1865, for headquarters and sleeping apartments.

After the removal of the soldiers from this building to the court-house, the same was used as a storeroom until July, 1865. The shelving, counters, and other fixtures were all removed and entirely destroyed. The framed part of the building was torn down and, with counters, shelving, and other loose material, used as firewood. The building was thus greatly damaged and rendered entirely unfitted for occupation as a store of general merchandise. A reasonable rental for same was \$75 per month. And a reasonable consideration for damages to the house and premises was \$500, making the total sum of \$1,250, for which she has received no pay or compensation whatever.

Your committee, after a thorough examination of all the papers in this case, state that these facts are fully and completely established by the sworn affidavits of four reputable citizens, shown to be credible witnesses, each of whom states that his testimony is given from personal knowledge of the facts stated. They all concur in the rental value of the houses as \$75 per month, and the damage as \$500, making the total of \$1,250. In addition to the four affidavits mentioned and sworn to

according to law, we append the sworn statement of Maj. Wm. H. Shook, in command at the time.

STATE OF KENTUCKY, *County of Henderson*:

Before me, George W. Smith, clerk of the Henderson County court, a court of record in and for said county and State, this day personally appeared before me Maj. Wm. H. Shook, who by me being duly sworn according to law, states that his age is 55 years, and that his post-office address is No. 1111 Main street, Evansville, Ind.; that in the year 1864, in the month of October, he was the major of the Third Battalion Kentucky Frankfort Guards, in the United States service in the war of 1861-1865; and that in said service, in said month of October, 1864, in line of his duty and under special orders of the then commander of the department of Kentucky, with his command, Third Kentucky Battalion, he took possession of and occupied as military headquarters a certain house on the east side of Main street, between First and Second streets, in the city of Henderson, Ky.

Said storehouse was built of brick, two stories high, and was fitted up at the time as a storeroom, with shelvings and counters, and had outbuildings of frame connected therewith, all of which, as said commander, he took possession of and occupied with his troops from the said month of October, 1864, until April, 1865, when said command was moved to the court-house in said city. Thereafter the said property was used as a storeroom for supplies until about the month of July, 1865. Affiant says he was given peaceable possession of said property, and that he removed all the shelving, counters, and other fixtures in order to make bunks and beds for the soldiers of his command, and that by reason thereof said premises were greatly injured and rendered totally unfit for use as a storeroom.

Affiant says that said property belonged to Mrs. Elizabeth Fulwiler, a widow at the time, with a large family of young children; and that so far as affiant knows no application or demand has been made for the rent and occupation of said property; and that a reasonable rental for said property would be \$75 per month, and a reasonable charge for damages would be \$500; and that he at the time issued a voucher for the same; and that he is not in any manner interested in the collection of said claim.

W. H. SHOOK.

Your committee, in view of the foregoing statement of facts, recommend the passage of the bill with the following amendment:

In line 4, after "Fulwiler," insert "of Henderson, Kentucky."

O

JESSE P. HARTMAN.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 8334.]

The Committee on War Claims, to whom was referred the bill (H. R. 8334) for the relief of Jesse P. Hartman, submit the following report:

It appears from the petition and evidence filed in support thereof that Jesse P. Hartman was commissioned as a second lieutenant of Company I, Eighth Regiment of Tennessee Cavalry Volunteers, on April 1, 1864, by the military governor of Tennessee, and served in that capacity until November 1, 1864, but was never mustered into the United States service.

By the act of Congress approved June 3, 1884, it was intended, by a general bill, to give relief in this class of claims, and it appears that Mr. Hartman did not present his case to the War Department under the act.

Your committee is of the opinion that the claimant should be paid for the services he rendered, and report back the bill and recommend its passage.

HEIRS OF MAJ. TARLETON WOODSON, DECEASED.

MARCH 29, 1898.—Laid on the table and ordered to be printed.

Mr. GIBSON, from the Committee on War Claims, submitted to the following

ADVERSE REPORT.

[To accompany H. R. 6022.]

The Committee on War Claims, to whom was referred the bill (H. R. 6022) for the relief of the heirs at law of Maj. Tarleton Woodson, deceased, submit the following report:

This claim was referred to the Court of Claims for a finding of facts under the terms of the Bowman Act, April 13, 1888, by the Committee on War Claims.

On May 20, 1892, the said Court of Claims returned to the House of Representatives the following findings of fact, to wit:

FINDINGS OF FACT:

The claim in this case was transmitted to this court April 13, 1888, by the Committee on War Claims of the House of Representatives. The case was brought to trial in December, 1891, the claimants being represented by their counsel, John S. Duffie, esq., and the defendants by the Assistant Attorney-General, John B. Cotton, and their assistant counsel, John C. Chaney, esq.

The court upon the evidence finds the facts to be as follows:

I.

Maj. Tarleton Woodson, a native-born citizen of Virginia, enlisted as a private in Capt. Charles Scott's company during the year 1775. He served in that company until regular regiments were raised, when he was appointed an ensign in the First Virginia Regiment, commanded by Patrick Henry. He served as an ensign and lieutenant in that regiment until the beginning of the year 1777, when he was appointed captain and subsequently promoted to be made major in Col. Moses Hazen's Independent Continental Regiment. He was present at the capture of the town of Norfolk, at the battle of White Plains, in the retreat of General Washington through New Jersey, at the battle of Trenton, and at the surrender of Cornwallis; he was also a prisoner of war for more than three years. He appears to have been an officer of good standing and subsequent to the war a well-known and greatly respected citizen. Major Woodson always claimed that he was entitled to half pay for life, or commutation thereof—five years' full pay. He presented his claim at an early day and for many years to various officers and also to Congress. It was never allowed, but was never expressly rejected, the refusals appearing to rest upon the ground that the officers to whom it was presented had not authority to adjust it or that it was barred by some statute. The facts as they now appear from the evidence in the case are as follows in the succeeding findings.

II.

Major Woodson appears to have served in the command known as "Hazen's Regiment," subsequent to the time of his exchange as a prisoner of war, until the 1st January, 1782. About that time he received a furlough which extended to and expired on the 1st March, 1782. At the time when this furlough expired he had not returned to the regiment; nor did he again return to it. Consequently, when the command was discharged from the service he was not present and did not receive his final pay. It does not appear that he ever received any certificate or formal discharge which would enable him to obtain his pay; and no evidence has been produced to show that he ever was paid. The court accordingly finds that there remains due to him, or to his estate, for his last year's service in the military establishment of the Government, \$600, with interest at 5 per cent per annum under the decision of the Supreme Court in the case of *The United States v. McKee et al.* (91 U. S. R., 442).

III.

The resolutions 3d October, 1780, and 21st October, 1780 (3d Journal Cong., pp. 532-538), provided for the reorganization of the military forces on Continental establishment by the consolidation or reduction of regiments. In the case of the Virginia troops the eleven regiments in the line were reduced to eight. The resolutions also provided for officers who should be "thrown out" or become supernumerary by this consolidation that they should receive half pay for life. But it does not appear that Major Woodson became a supernumerary under or by reason of this reduction; and under the decision of the Supreme Court in the case of *Williams, administrator of Taylor, v. The United States* (137 U. S. R., p. 113) Major Woodson did not become entitled to half pay for life because he may subsequently, for other reasons, have become a supernumerary.

IV.

The resolution of the Continental Congress, October 21, 1780, provided "that the officers who shall continue in the service to the end of the war shall be entitled to half pay for life," and the resolution March 22, 1783, provided that five years' full pay should be allowed to "such officers as are now in the service and shall continue therein until the end of the war." But it does not appear that Hazen's regiment was one of the Continental Line, or commands, designated or referred to in the resolution October 21, 1780, or that Major Woodson continued in the service until the end of the war.

BY THE COURT

Filed May 2, 1892.

A true copy.

Test, this 19th day of May, 1892.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

It appears that this claim was settled by the accounting officers of the Treasury Department August 22, 1839, in accordance with the act of March 3, 1839 (6 Stat. L., p. 762).

Your committee attach hereto a letter from the Acting Secretary of the Treasury, under date of March 19, 1898, transmitting copy of report of the Auditor for the War Department, and ask that it and the Auditor's report, etc., be printed as a part of this report.

Your committee report adversely, and recommend that the bill do lie upon the table.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 19, 1898.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, requesting information relative to the claim of the heirs of Tarlton Woodson.

In reply, I have the honor to transmit copy of report of the Auditor for the War Department, from which it appears that the claim was settled in accordance with the act of March 3, 1839. I also inclose the copies of letters referred to in the Auditor's letter.

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

HON. THADDEUS M. MAHON,
Chairman Committee on War Claims, House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR THE WAR DEPARTMENT,
Washington, D. C., March 17, 1838.

SIR: In compliance with your request of 14th instant for a report on the inclosed bill for the relief of the heirs at law of Maj. Tarleton Woodson, deceased, for services as an officer in the Revolutionary war, I have to inform you that the records show that an account was stated in accordance with the act of March 3, 1839, and the sum of \$250.66 allowed and paid to Charles Woodson, executor of Maj. Tarleton Woodson, deceased, on August 22, 1839.

In this connection I inclose copies of two letters written by Peter Hagner, Third Auditor, to Hon. George L. Kinnard, dated January 23, 1836, and Hon. A. H. Shepperd, dated February 5, 1838, and also of the account stated by the commissioner of army accounts, dated February 10, 1791, showing the balance due Maj. Tarleton Woodson.

Letter of Hon. Thad. M. Mahon inclosed herewith.

Respectfully, yours,

W. W. BROWN, *Auditor.*

The SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
February 5, 1838.

SIR: I have had the honor of receiving your letter of the 3d instant, inquiring whether this "office affords any evidence that Tarlton Woodson was entitled to commutation on account of his services as lieutenant and major in the Virginia line on Continental establishment during the Revolutionary war." In reply I have to state that the Revolutionary records on file in this office do not show that Tarlton Woodson was a lieutenant in the Virginia line, but the rolls of the Fourteenth Regiment of that line show that he was adjutant of that regiment in the year 1777, which appointment he appears to have resigned. He appears to have been a major in Hazen's Regiment (a distinct corps), and from a register of musters of that regiment on file in the Pension Office it appears that he was taken prisoner on the 22d of August, 1777, but what finally became of him neither that register nor the records of this office furnish any information. He was certainly not returned as being entitled either to land or commutation from the United States.

With great respect,

PETER HAGNER, *Auditor.*

Hon. A. H. SHEPPERD,
Committee Revolutionary Claims, House of Representatives.

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE, *January 23, 1836.*

SIR: The petition and the copy of the account therein referred to in the case of Charles Woodson, executor of Tarlton Woodson, and which were received with your letter of the 15th instant, are herewith returned. I find on examining the petition that the petitioner prays Congress to pass a law directing to be paid to him the sum of \$250.66, the balance appearing to be due to Maj. Tarlton Woodson, on account stated by the commissioner of army accounts on the 10th February, 1791. In regard to this claim, I have the honor to state that the inclosed copy of a letter written by the commissioner to the Auditor of the Treasury on the same day that the account in question was stated by him, say 10th February, 1791, furnishes all the information that the records in this office afford in relation to the balance of \$250.66 appearing to be due Major Woodson on the face of the account. At the period that Major Woodson's account was stated by the commissioner, all such claims received the action of the officers of the Treasury before any balance found due the commissioner was paid. It will therefore be necessary to refer this case to the Register of the Treasury for information as to whether the balance in question has been paid or not.

With great respect,

PETER HAGNER, *Auditor.*

Hon. GEO. L. KINNARD,
House of Representatives.

HEIRS OF MAJ. TARLETON WOODSON, DECEASED.

Major Tarlton Woodson, late of Hazen's Regt. (and late a prisoner) in account with the United States.

DR.		CR.		
1780. Novem.	To specie value of 5666 ⁸⁸ / ₁₀₀ dol- lars old emissions rec'd of Joseph Carleton, pmas. to the board of war, at 74 for one \$76. 51 " cash and supplies of Elias Boudinot, C. G. P. ... 170. 77 ditto of John Beatty, do 318. 06 488. 83 To sundries rec'd of the Clo. General. 24. 81 " ditto of the Quar. M. Genl. 5. 11 " goods received at York Town 66. 60 96. 92		By the following sums credited by Major Woodson on settlement of his account of depreciation with the State of Virginia, viz: Old emissions rec'd in Novem., '80, valued by the State at £29 6 8 Cash and supplies rec'd of Messrs. Boudinot & Beatty by the hands of Mr. Pintard 91 15 5 ¹ / ₂ One month's pay rec'd of the P. M. G. Hd. of Elk 15 00 0 Goods received at York Town 20 00 0 Virg. curry £156 2 1 ¹ / ₂ \$520. 31 ¹ / ₂ By rations while prisoner, viz, from the 22d Aug., 1777, to the 1st of November, 1780—1167 days, 4 rations p. day, 4,668 rats., at ¹ / ₈ ea., dolls. 778. 00	
1781.	To cash of the P. M. Gl., one month's pay at the Hd. of Elk 50. 00 To the State of Virginia for the following sums allowed for rations on settlement of his account of depreciation, viz: 3 ret'd rations from 1 June, '78 to 1 Augt., '80 at 8d. £78. 00 ditto from Augt. 1, '80, to 31 Dec., '81, at 1/ 76. 10 Virg. curry £154. 10 515. 00 To balance int. from the 1 Jany., 1782 250. 66		" ditto ret'd from the 1st No- vemr., 1780, to 1st Aug., 1781, 273 days, 3 rats. p. day, 819 rats. at ¹ / ₈ 91. 00 " ditto from the 1st Aug., 1781, to 1st Jan'y, 1782, 153 days, 459 rats. at 9 ³ / ₄ 48. 40 ¹ / ₂ 917. 40 ¹ / ₂ By travelling expenses allowed from Elizabeth Town, in New Jersey, to —, in Virginia, 380 miles, one day's pay and rations for every 20 miles, 19 days at 2 ¹ / ₈ dols. p. day 40. 10	
	Specie 1, 477. 82	Specie 1, 477. 82		

NEW EMISSIONS.

1781. June...	To cash received from paymas.-genl. on acct. of pay ... 195.00	By this sum credited by Major Woodson on settlement of his acct. of depreciation with the State of Virginia. 195.00
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As Major Woodson did not comply with the act of Congress of the 2d of November, 1785, a quære arises whether under that act this balance can be admitted without the interference of Congress.

JOSEPH HOWELL,
Actg. Commissioner.

OLIVER WOLCOTT, Junr., Esqr.,
Auditor of the Treasury.

OFFICE OF (LATE) A. ACCOUNTS,
Philadelphia, Feb'y 10, 1791.

I certify the above to be a true copy of the original on file in the auditor's office.

OLIV. WOLCOTT, Jr.

METHODIST EPISCOPAL CHURCH (COLORED), ROME, GA.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 9557.]

The Committee on War Claims, to whom was referred the bill (H. R. 831) for the relief of the Methodist Episcopal Church (colored), at Rome, Ga., submit the following report:

The history and facts of this claim are fairly set out in a petition, as follows:

CITY OF ROME, *Floyd County, Ga.*

Col. C. C. SIBLEY, U. S. A.,

Commanding District of Georgia, and Assistant Commissioner:

The undersigned, your petitioners, would respectfully represent that they are freedmen and persons of color; that previous to the commencement of the late war they, together with the other colored people of the said city of Rome and its vicinity, owned and possessed in their own right a large brick edifice (about 50 by 35 feet, with sufficient height, and finished off), together with the lot on which the same was situated, situated and located in the said city of Rome, which said building was used as a church for public worship and moral instruction by the colored people exclusively, and was of the value of \$2,500.

Your petitioners would further represent that in the year 1864, and during the time Rome was occupied by the Federal troops, the said brick edifice, used for the purposes aforesaid, was torn down and destroyed by the Federal soldiers, by authority of the commander of the forces in Rome, and a fortification constructed on the site of said building.

Your petitioners would, therefore, on behalf of the colored citizens of Rome and its vicinity, most respectfully ask and pray that an appropriation or an allowance be made for their benefit out of such funds as may be set apart for the benefit of the freedmen or otherwise to enable them to rebuild their church for the purpose of divine worship and to be used for the education of their children, being too poor themselves to contribute for such purposes, and they will ever pray, etc.

W. B. HIGGINBOTHAM.

ALBERT BEAMAN.

RANDOLPH (X) HUNT.

WM. BARRETT.

LEWIS SILMON.

Though said petition omits to recite the fact, it is shown by a plat of the site that the church occupied the highest point in the city limits, and that the brick material was used for breastworks and rifle pits.

The petition is attested as follows:

The above and foregoing petition was signed in my presence this 12th day of April, 1867.

C. A. DE LA MESA,
Captain and Subassistant Commissioner.

2 METHODIST EPISCOPAL CHURCH (COLORED), ROME, GA.

The allegations thereof are confirmed, viz:

ROME, GA., April 30, 1867.

Maj. Gen. O. HOWARD.

DEAR SIR: My official duties called me to this city. From the most reliable men of the city, as well as from public documents, I learn the following facts in relation to the colored church in this city:

The colored people purchased a lot and built a chapel, that cost them about \$2,500, while in slavery.

When the Union forces took possession of Rome this church lot was selected as an important point to plant a siege battery, and the church was taken down by an order from the military commander, for which they have received no compensation. This church was the only one disturbed by the United States forces, and the colored people the only loyal citizens, and they the least able to sustain the loss. There is now a large congregation of colored citizens of different denominations without a house of worship. I appeal to you, General, in behalf of these poor, industrious, pious, and loyal people to assist them in obtaining from the Government an amount sufficient to build them a church as good as the former one.

A. S. LAKIN,
Presiding Elder of Huntsville District, Alabama, M. E. Church.

The within statement I believe to be correct.

JAS. F. CHALFANT,
Superintendent of the Missions of M. E. Church in Georgia and Alabama.

The petition is indorsed:

Respectfully forwarded to Col. C. C. Sibley, U. S. A., commanding district of Georgia and assistant commissioner, with the information that I find, upon investigation, the facts are as stated in this petition.

C. A. DE LA MESA,
Captain and Subassistant Commissioner.

And by Colonel Sibley referred as follows:

Respectfully forwarded to Maj. Gen. O. O. Howard, commissioner, with the earnest recommendation that such action may be taken as will secure to the colored people of Rome the relief prayed for.

C. C. SIBLEY,
Colonel Sixteenth United States Infantry and Assistant Commissioner.

The petition was returned:

BUREAU OF REFUGEES, FREEDMEN, AND ABANDONED LANDS,
War Department, Washington, May 16, 1867.

Respectfully returned. The assistant commissioner is authorized to render such assistance in this case as he may think proper, providing the edifice to be repaired is to be used for school purposes. The commissioner has no authority to build or repair churches.

By order of Major-General Howard:

A. P. KETCHUM,
Acting Assistant Adjutant-General.

Whereupon Colonel Sibley promptly, to wit, on May 21, 1867, returned the papers to General Howard indorsed:

It is not intended that this relief shall be considered a charity, but as a claim against the Government, which it is the duty of this Bureau to prosecute.

General Howard replied May 21, 1867:

They, petitioners, ask for an allowance from the fund set apart for the benefit of freedmen; no part of that fund is set apart to pay claims of this kind, etc.

So petitioners were denied the remedy sought, and Congress alone can relieve them.

Their case is plain, its facts are officially certified, and their equities are established.

Your committee report herewith a substitute for the bill and recommend its passage.

ST. JOHN'S CATHOLIC CHURCH, SUMMERSVILLE, W. VA.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

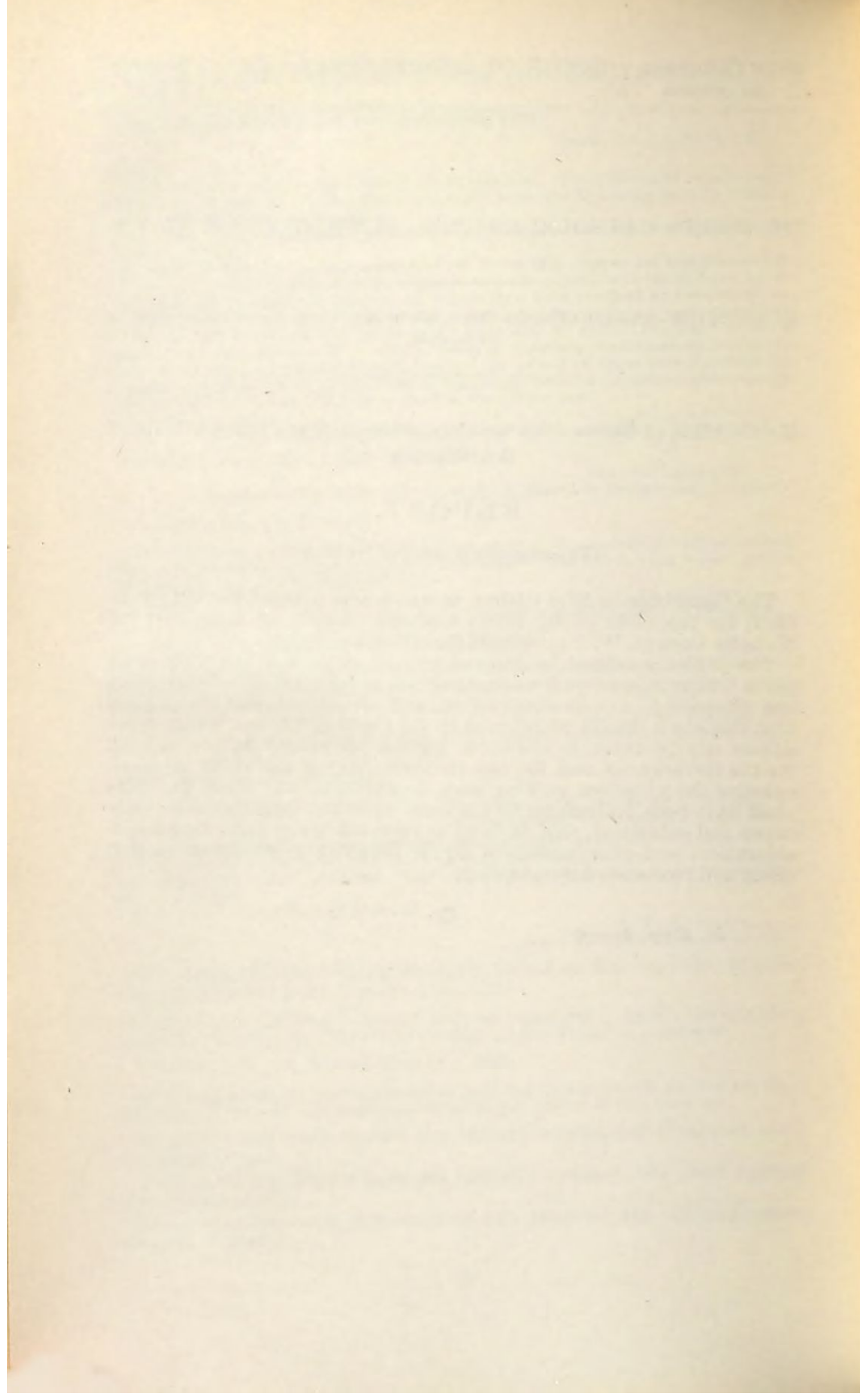
REPORT.

[To accompany House Res. No. 269.]

The Committee on War Claims, to whom was referred the bill (H. R. 6969) for the relief of St. John's Catholic Church, at Summersville, Nicholas County, W. Va., submit the following report:

The evidence offered in support of this claim is in the form of ex parte affidavits, and your committee has no opportunity of subjecting the witnesses to a cross-examination, and are therefore of the opinion that this claim should be referred to the Court of Claims, where depositions can be taken in the usual manner prescribed by law, counsel for the Government and for the claimant having the right to cross-examine the witnesses making such depositions; and when the facts shall have been determined by the court upon the legal testimony thus taken and submitted, said facts to be reported to Congress for its consideration; and your committee report herewith a resolution to that effect and recommend its adoption.





WARREN G. BEACH.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULZER, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3389.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3389) to reappoint Warren C. Beach a captain of infantry in the Army and to place him on the retired list, in addition to the number now authorized, submit the following report:

Captain Beach entered the Military Academy at West Point June, 1861, graduated June, 1865, and resigned his commission June, 1886. In Captain Beach's entire record for these twenty-five years' service the committee find no blot in any way, reprimand, arrest, nor court-martial, but much commendation for his work. From September, 1865, to January, 1871, Captain Beach was on continuous duty with his regiment the entire time, and as adjutant (with exception October, 1865, to November, 1865) with the different portions of his regiment, being always reappointed in reorganizations. All the different and additional duties, as shown by War Department report, were in addition to his regular regimental duties and not as on detached service.

In 1866 and 1867 Captain Beach twice nearly lost his life from southern fevers, being ill for six months from these severe attacks, lying at New Orleans with yellow fever in the epidemic of 1867; and from the effects of this severe experience he has never recovered, as shown from his own statement and the medical testimony submitted. Attention is particularly called to Captain Beach's commendations for his devotion and care of his men in two severe epidemics of cholera and fevers.

It is shown, on reporting for recruiting service, in January, 1871, he was again appointed post adjutant, continuing these duties at special request of superintendent of recruiting service till his return to his regiment, in 1872; four years' continuous services with same, and during that time, hard and arduous Indian service in the Kiowa and Comanche campaign, during which he is commended for his services.

It is known Captain Beach arrested the war chief of the Kiowas at Fort Sill, Indian Reservation, at night, and at the risk of his life, during these Indian troubles. His duty is again commended by his commanding officer, General Davidson.

Captain Beach, the War Department record shows, was, after this service, granted leave in 1875 to 1876; also again in 1877, and on detached duty till 1878; then on duty with his company till 1881, when again he was granted leave; after five or six months of field duty in Dakota, and with much suffering for his company and himself from the extreme cold, Captain Beach's leaves of absence and his detached service were granted and ordered by proper and legal authority, and undoubtedly for proper reasons, and can not be to his discredit. His resignation is shown to have been offered at least through moral duress, tendered with reluctance, and from circumstances beyond his control. Medical testimony show his being under constant and continuous medical care since his return to his home.

The War Department record affirms and states no testimony before it showing Captain Beach's sickness, because, Captain Beach affirms, this has always been avoided by him, though his post medical records show same. His whole service presents no discredit, and he appears to have been a most painstaking and faithful officer and is highly spoken of and commended. For the eight to ten years Captain Beach has sought this relief, bills for same have before received favorable consideration by Congress, and it is recommended this bill do pass.

The reports from the War Department are herewith appended and made a part of this report.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, May 18, 1894.

SIR: I have the honor to return herewith House bill No. 4743, "to reappoint Warren C. Beach a captain in the Army, and to place him on the retired list in addition to the number now authorized," which has been referred to the Department by the chairman of the House Committee on Military Affairs, and to inclose a copy of a report made by this office January 12, 1891, and accompanying papers, on a similar bill in the Fifty-first Congress, which give the military record of Capt. Warren C. Beach and the circumstances of his resignation from the service.

Nothing is now presented to this office to change the unfavorable recommendations therein made.

So much of the bill as proposes to place Captain Beach upon the retired list after restoration is especially objectionable. The retired list was created to care for officers who have been disabled for active duty by wounds, disability, or long service. In the opinion of this office, this list should be carefully guarded, and no one should be placed thereon for the single purpose of restoring him to the Army with pay and without service.

Very respectfully,

GEO. D. RUGGLES, *Adjutant-General.*

The SECRETARY OF WAR.

WAR DEPARTMENT,
Washington City, January 13, 1891.

SIR: I return herewith H. R. 12682, Fifty-first Congress, second session, "to reappoint Warren C. Beach a captain in the Army, and to place him on the retired list in addition to the number now authorized," which was referred to this Department on the 9th instant, and invite your attention to the inclosed report of the Adjutant-General, dated the 12th instant, and to the papers therein referred to.

Very respectfully,

REDFIELD PROCTOR, *Secretary of War.*

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 12, 1891.

SIR: I have the honor to return herewith House bill 12682, referred to the Department by the chairman of the House Committee on Military Affairs, which provides for the reappointment as captain and retirement of Warren C. Beach, late captain Eleventh United States Infantry.

I inclose an abstract of the military record of Captain Beach, and copy of his tender of resignation and of the correspondence on file relating thereto, and also a copy of subsequent correspondence upon a request for the withdrawal of the resignation.

The official records afford no evidence that Captain Beach contracted in the military service disabilities which would entitle him to retirement. The existing law (sections 1245 to 1252, Revised Statutes) provides for the retirement of officers for disability upon the finding of retiring boards only. If Captain Beach were in the Army now he would not be entitled to retirement by reason of length of service, nor age, nor could he be retired for disability except upon the finding of a retiring board that he had become incapacitated for active duty, and that the disability was incurred in the service.

Very respectfully, your obedient servant,

J. C. KELTON, *Adjutant-General.*

The SECRETARY OF WAR.

FORT SULLY, DAK., October 6, 1885.

SIR: I have the honor to request leave of absence for one month, with permission to apply for an extension of one month, to take effect the latter part of October. I earnestly beg favorable consideration of this application, as private business involving many pecuniary interests demands my immediate attention, and which can not be delegated to others, but through myself, by necessary legal forms, requiring my presence.

I am, sir, very respectfully,

WARREN C. BEACH,
Captain, Eleventh Infantry.

The ASSISTANT ADJUTANT-GENERAL, DEPARTMENT OF DAKOTA,
St. Paul, Minn.

[First indorsement.]

FORT SULLY, DAK., October 8, 1885.

Respectfully forwarded to the Assistant Adjutant-General, Department of Dakota, disapproved.

RICHARD I. DODGE,
Colonel Eleventh United States Infantry, Commanding Post.

[Second indorsement.]

HEADQUARTERS DEPARTMENT OF DAKOTA,
Fort Snelling, Minn.

Respectfully forwarded to the Adjutant-General, Division of the Missouri, not approved.

The applicant was on leave from May 16, 1881, to April 20, 1882, and from that date to April 15, 1885, absent on detached service.

Attention is invited to indorsement of his post commander, dated September 15, on prior application of September 14 for two months' leave with permission to apply for two months' extension.

ALFRED H. TERRY,
Brigadier-General Commanding.

[Third indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Chicago, October 15, 1885.

Respectfully forwarded to the Adjutant-General of the Army, attention being invited to the indorsement (preceding) of Brig. Gen. Alfred H. Terry, commanding Department of Dakota, hereon.

Copy of entry of previous application of this officer, referred to by General Terry, is inclosed. The same reasons for disapproval would seem to govern in this case as did in previous case.

J. M. SCHOFIELD,
Major-General. Commanding.

[Transcript from letter-received book, Division of the Missouri.]

SEPTEMBER 28, 1885.

Commanding General, Department of Dakota, September 25, 1885, forwards, not approved, application of Capt. W. C. Beach, Eleventh Infantry, dated Fort Sully, September 14, for a leave of absence for two months, with permission to apply for an extension of two months, to take effect the latter part of October, for purpose of attending to private business.

Colonel Dodge, Eleventh Infantry, commanding post, in indorsement dated September 15, disapproves the application for the reason that Captain Beach joined his company April 15, 1885, after a continuous absence of four years; was on leave of absence for six months from November 14, 1877, and states that Captain Beach informed him that he thought twenty days was sufficient in which to do his business. Colonel Dodge also states that his post is badly crippled with sick and disabled officers.

Action: September 28, 1885. Respectfully returned to the Commanding General, Department of Dakota, "disapproved."

[Fourth indorsement.]

The Lieutenant-General disapproves.

M. V. SHERIDAN,
Assistant Adjutant-General.

HEADQUARTERS ARMY, *October 20, 1885.*

UNITED STATES ATTORNEY'S OFFICE,
New York, October 17, 1885.

MY DEAR SIR: I write to you for the purpose of asking a leave of absence for six months to Capt. William C. Beach, Eleventh United States Infantry, now stationed in Dakota, I think.

Captain Beach has been in service for about twenty years, fourteen of which have been passed upon the frontier. There are some circumstances of a private character which make it necessary that he should be here about November 1, and I fear that, unless the leave of absence is granted him, he will be compelled to resign—a step which his friends would greatly regret, and which he is very unwilling to take.

Captain Beach is a brother of the Hon. Miles Beach, judge of the court of common pleas of this city, and well known to the President, and both the captain and judge are warm political friends.

Believe me, my dear Mr. Secretary,

Very respectfully, your obedient servant,

WILLIAM DORSHEIMER.

Hon. WILLIAM C. ENDICOTT,
Secretary of War, Washington, D. C.

WAR DEPARTMENT,
Washington City, October 21, 1885.

SIR: I have the honor to acknowledge the receipt of your letter of the 17th instant, requesting that a leave of absence for six months be granted Capt. Warren C. Beach, Eleventh Infantry, and to say that Captain Beach was absent from his command on leave from May 16, 1881, to April 20, 1882, and from the latter date to April, 1885, on detached service, a total absence from his regiment of nearly four years.

In view of this recent long absence, an official application from Captain Beach for a leave had, prior to the receipt of your letter, been disapproved by his post, department, and division commanders, and by the lieutenant-general.

Under these circumstances you will readily perceive the impropriety of granting Captain Beach a further indulgence at this time, more especially as his regimental commander has very recently represented the injury to the service resulting from the absence of so many of his officers from duty with the regiment.

I am, sir, your obedient servant,

WM. C. ENDICOTT,
Secretary of War.

Hon. WILLIAM DORSHEIMER,
United States Attorney, New York City, N. Y.

FORT SULLY, DAK., *November 1, 1885.*

SIR: I have the honor to request leave of absence till November 1, 1886, my resignation inclosed to take effect same date.

Family matters demanding my immediate attention compel this action, no leave of absence being allowed me to attend to same. After twenty years honorable service I ask this indulgence to arrange for my future in thus giving up my profession.

I am, sir, very respectfully,

WARREN C. BEACH,
Captain, Eleventh Infantry.

The ADJUTANT-GENERAL UNITED STATES ARMY,
Washington, D. C.

FORT SULLY, DAK., *November 1, 1885.*

SIR: I have the honor to tender my resignation as captain, Eleventh United States Infantry, United States Army, to take effect November 1, 1886.

I am, sir, very respectfully,

WARREN C. BEACH,
Captain, Eleventh Infantry.

The ADJUTANT-GENERAL UNITED STATES ARMY,
Washington, D. C.

FORT SULLY, DAK., *November 2, 1885.*

Respectfully forwarded through headquarters Department of Dakota.

RICHARD I. DODGE,
Colonel Eleventh United States Infantry, Commanding Post.

[Second indorsement.]

HEADQUARTERS DEPARTMENT OF DAKOTA,
Fort Snelling, Minn., November 5, 1885.

Respectfully forwarded through headquarters Division of the Missouri. Captain Beach has stated within that "family matters demanding my (his) immediate attention compel this action, no leave of absence being allowed me (him) to attend to same;" and as one application for one month was refused me (letter October 8, 1885, copy herewith), I invite attention to the action on previous applications, dated September 14 and October 8, 1885 (former disapproved by the major-general commanding division, latter by Lieutenant-General Commanding the Army), in connection with the following portion of Captain Beach's record:

On leave from November 4, 1877, to June, 1878—six months, twenty-seven days.

On detached service from June 1, 1878, to November 3, 1878—five months, two days.

On leave from May 16, 1881, to April 20, 1882—eleven months, four days.

On detached service from April 20, 1882, to April 15, 1885—thirty-five months, twenty-five days.

Total: Four years, ten months, twenty-eight days.

Aside from the foregoing absence, he had leave from November 19, 1875, to November 3, 1876, and was on detached service (S. O. 230, A. G. O., 1876) to November 26, thus making total absence from his company since 1875 of five years, eleven months, and five days, or more than one-half of the period.

ALFRED E. TERRY,
Brigadier-General, Commanding.

[Third indorsement.]

HEADQUARTERS DIVISION OF MISSOURI,
Chicago, November 10, 1885.

Respectfully forwarded to the Adjutant-General of the Army, inviting attention to the indorsement of the commanding general Department of Dakota (preceding).

J. M. SCHOFIELD,
Major-General, Commanding.

[Telegram.]

FORT SULLY, DAK., *November 1, 1885.*

Adjutant-General DRUM, *Washington, D. C.*

Resignation forwarded, take effect November 1, 1886, with letter requesting leave. Twenty years in service. Can I start? Can I start at once? Family matters demanding immediate attention compel this action. Ask this for family, not for myself.

W. C. BEACH, *Captain.*

[First indorsement.]

Respectfully submitted to the Lieutenant-General of the Army.

J. C. KELTON,
*Acting Adjutant-General.*ADJUTANT-GENERAL'S OFFICE, *November 2, 1885.*

[Second indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, D. C., November 4, 1885.

The Lieutenant-General disapproves, but wishes the Adjutant-General to telegraph Captain Beach he will recommend acceptance of his resignation, to take effect six months hence, and leave for that period.

M. V. SHERIDAN,
Assistant Adjutant-General.

[Telegram.]

ADJUTANT-GENERAL'S OFFICE,
Washington, November 4, 1885.

Capt. WARREN C. BEACH,
Eleventh Infantry, Fort Sully, Dak. :

The Lieutenant-General declines to approve leave applied for, but will recommend six months' leave and acceptance of your resignation at expiration thereof.

J. C. KELTON,
Acting Adjutant-General.

[Telegram.]

FORT SULLY, DAK., *November 4, 1885.*

Adjutant-General DRUM,
Washington, D. C. :

Please allow me to leave post immediately. Date my resignation June 1. Situation of family demands my immediate presence. I beg no further delay may be caused.

W. C. BEACH, *Captain.*

[First indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, November 5, 1885.

Respectfully submitted to the Secretary of War, recommending that Captain Beach's resignation be accepted, to take effect June 1, 1886, and that he be granted leave until that date.

P. H. SHERIDAN, *Lieutenant-General.*

[Second indorsement.]

WAR DEPARTMENT, *November 5, 1885.*

The resignation of Capt. Warren C. Beach, Eleventh Infantry, is, by direction of the President, accepted to take effect June 1, 1886.

WM. C. ENDICOTT, *Secretary of War.*

[Telegram.]

ADJUTANT-GENERAL'S OFFICE, *Washington, November 5, 1885.*
COMMANDING GENERAL, DEPARTMENT DAKOTA,
Fort Snelling, Minn. :

Resignation of Capt. Warren C. Beach, Eleventh Infantry, accepted to-day, as tendered by telegraph, to take effect June 1 next, and leave granted him to that date. Please notify him by telegraph.

J. C. KELTON, *Acting Adjutant-General.*

SUPREME COURT, JUDGE CHAMBER,
New York, May 15, 1886.

MY DEAR SIR: Despite personal solicitation in Washington, my brother, Capt. Warren C. Beach, was forced to resign from the Army, to take effect June 1 proximo. He had faithfully served about twenty years in the frontier by the grace of Republican Administration, save President Arthur's, who was my personal friend. His action, as he forewarned me would result, made the Adjutant-General's Office very inimical to Captain Beach. I should be glad if, notwithstanding such probable opposition, you would permit the resignation to be withdrawn, and appoint him Assistant Adjutant-General, in place of Colonel Benjamin, deceased. If other requests are needed, I think I can forward, within reasonable time, one from nearly every Democratic leader in this State.

Your obedient servant,

MILES BEACH.

His Excellency GROVER CLEVELAND,
President of the United States.

WASHINGTON, D. C., May 19, 1886.

SIR: I have the honor to request the withdrawal of my resignation and ask an extension of my leave to November 1, 1886. I was forced to tender my resignation on account of my family affairs; my presence being obligatory, I had no option, and all leave being denied me. I most earnestly desire to retain my position in the service, and hope to secure some place that will enable my family being with me; as in my present position, health and physical infirmities forbid their so doing. Failing in this I am forced, on their account, to give up my future; and my extension of leave gives me no more time than has been granted many others leaving the service. Most earnestly begging consideration of my request and, in so doing, my long service in the Army,

I am, yours, very respectfully,

WARREN C. BEACH,
Captain, Eleventh Infantry.

The SECRETARY OF WAR,
Washington, D. C.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, May 29, 1886.

SIR: Referring to your request of the 19th instant, for permission to withdraw your resignation—hereto before accepted, to take effect June 1, 1886—and for an extension of your leave of absence to November 1, 1886, I have the honor to inform you that, after a careful consideration, the Secretary of War declines to entertain your request for the revocation of the acceptance of your resignation.

Very respectfully, your obedient servant,

R. C. DRUM, *Adjutant-General.*

Capt. WARREN C. BEACH,
Eleventh Infantry, No. 585 Fifth Avenue, New York City.

[Telegram.]

NEW YORK, May 31 [1886].

Gen. R. C. DRUM,
Adjutant-General, United States Army, Washington, D. C.:

Can my recognition [resignation] be dated November 1 instead June 1 and leave extended? Ask this favor in consideration of my long and faithful service. Desire to remain in service as long as possible.

WARREN C. BEACH.

[Telegram.]

ADJUTANT-GENERAL'S OFFICE,
Washington, June 1, 1886.

Capt. WARREN C. BEACH,
585 Fifth Avenue, New York:

The Secretary of War adheres to his decision as communicated to you in letter 29th ultimo, and declines to approve any change in date of your resignation.

R. C. DRUM, *Adjutant-General.*

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 12, 1891.

*Statement of the military service of Warren C. Beach, late of the United States Army,
compiled from the records of this office.*

He was a cadet at the United States Military Academy from July 1, 1861, to June 23, 1865, when he was graduated. and appointed—

Second lieutenant, Fifteenth Infantry, June 23, 1865; first lieutenant, June 23, 1865; transferred to Twenty-fourth Infantry September 21, 1866; transferred to Eleventh Infantry April 23, 1869; captain, October 29, 1886. Resigned June 1, 1886. He was regimental adjutant Twenty-fourth Infantry, December 13, 1866, to April, 1869, and of the Eleventh Infantry April, 1869, to January 23, 1871.

SERVICE.

He joined his regiment October 1, 1865, and served with it at Fort Adams, R. I., to November, 1865; at Mobile, Ala., to December 29, 1865; on sick leave to January 16, 1866; with regiment at Vicksburg, Miss. (being on leave September 7 to November 7, 1866), to April 18, 1867; acting assistant inspector-general, subdistrict of Mississippi, to August 3, 1867; on sick leave and surgeon's certificate of disability September to November 8, 1867; acting assistant inspector-general, subdistrict of Mississippi, to August 4, 1868; with regiment at Vicksburg, Miss. (being on leave December 2, 1868, to February 2, 1869), to March, 1869; at Galveston, Tex., to June 4, 1870; at Fort Concho, Tex., to January 23, 1871; on general recruiting service to June 17, 1872; with regiment at Fort Concho, Tex., to February 11, 1873; at Fort Richardson, Tex., to March 6, 1874; at Camp Augur, Ind. T., to June, 1874; at Fort Sill, Ind. T., to November 19, 1875; on leave to October 31, 1876; enroute to and with regiment at Fort Bennett, Dak. (on leave November 4, 1877, to June 1, 1878; awaiting orders to July 1, 1878, and member of a retiring board at New York City, to October 1, 1878), to November 14, 1879; at Fort A. Lincoln, Dak., to May 16, 1881; on leave to April 19, 1882; on special duty at headquarters Department of the East (on leave August 14, to September 3, 1884), to March 12, 1885; with regiment at Fort Sully, Dak., from April 13, 1885, to November 9, 1885, and on leave to June 1, 1886, when he resigned.

J. C. KELTON,
Adjutant-General.



WARREN C. BEACH.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRIFFIN, from the Committee on Military Affairs, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. R. 3389.]

The undersigned beg leave to submit the following as the views of the minority of the Committee on Military Affairs on the bill (H. R. 3389) to reappoint Warren C. Beach a captain of infantry in the Army, and to place him on the retired list:

The majority report contains a statement in full of the military record and service of the beneficiary. It appears therefrom that Captain Beach voluntarily resigned from the Army on June 1, 1886; that he entered the United States Military Academy in June, 1861, and graduated in June, 1865; consequently did not participate in the late civil war, nor does his record present any war service to commend his case to meritorious consideration. He served during an interval of profound peace. Therefore the case lacks that element which, in similar applications, has usually controlled in securing favorable recommendation and action on such a measure—that is, participation in active service in the field in time of war, accompanied by acts of special gallantry and bravery. His service in the Army proper covered only twenty-one years, and there is nothing unusual in his record to justify a favorable report, unless the majority believe that absence from his company and regiment, either on leave or performing more agreeable duty than service therewith, be such as to entitle him to the proposed relief.

On page 5 of the majority report will be found copy of an indorsement by Gen. Alfred E. Terry, commanding Department of Dakota, dated November 5, 1885, on Captain Beach's resignation, tendered November 1, 1885, to take effect November 1, 1886, in which his absences are noted as follows:

On leave from November 4, 1877, to June 1, 1878, six months twenty-seven days. On detached service June 1, 1878, to November 3, 1878, five months two days. On leave May 16, 1881, to April 20, 1882, eleven months four days. On detached service from April 20, 1882, to April 15, 1885, thirty-five months twenty-five days. Total absences in seven years and a half, four years ten months and twenty-eight days.

In addition to the foregoing, this officer had leave from November 19, 1875, to November 3, 1876, and on detached service to November 26, 1876, thus showing a total absence from his company for the period intervening between 1875 and November 15, 1885, of five years eleven months and five days, or more than one-half of that period of his service, and more than one-fourth of his whole term of service in the Army.

It also appears, on page 8 of the majority report, that he was first lieutenant and regimental adjutant, Twenty-fourth Infantry, from December 13, 1866, to April, 1869, and of Eleventh Infantry from April, 1869, to January 23, 1871, his adjutancy therefore covering a period of five years one month and ten days, which, with the preceding absences from his company, would aggregate eleven years and fifteen days, or more than one-half his entire term of service.

To this may be added other absences, as follows: On sick leave from December 29, 1865, to January 16, 1866, eighteen days; on leave from his regiment September 7, 1866, to November 7, 1866, two months; acting assistant inspector-general, subdistrict Mississippi, from April 18, 1867, to August 3, 1867, three months sixteen days; on sick leave and surgeons's certificate of disability September to November 8, 1867, one month eight days; acting assistant inspector-general, subdistrict of Mississippi, from November 8, 1867, to August 4, 1868, eight months and twenty-seven days; on leave December 2, 1868, to February 2, 1869, two months; on general recruiting service January 23, 1871, to June 17, 1872, one year four months and twenty five days, aggregating two years nine months and four days, and making his total absences from his company thirteen years nine months and nineteen days. Hence, in a term of service covering twenty-one years he apparently was with his company a little over seven years.

In the majority report the various absences on duty noted in this officer's military record and service are facetiously denominated additional duties to his regular regimental duties, and not on detached service.

Surely no one familiar with the military service will seriously assert that an officer serving as a regimental adjutant, or as assistant inspector-general, or on general recruiting service, or as a member of a retiring board at New York City, or on special duty at Headquarters Department of the East, also during the same period of time performs company duties; and yet this is the contention of the majority.

The desirable details, assignments, and leaves of absence presented in the record could only be secured upon application and persistent effort on the part of the officer and his friends, and in this respect it must be conceded that the officer was unusually successful, since he was absent from his company two-thirds of his service. Every detail mentioned was more desirable than service as a line officer, and the record clearly shows that this officer was in that regard most highly favored.

The majority assert with much unction that "the committee find no blot in any way, reprimand, arrest, nor court-martial" in the entire record of the officer. This, however, only proves that he kept within the limitations of military law and discipline, and nothing more. He owed this as a duty to his country, which had educated him for its service.

The minority submit that this officer's record is not without a blot in view of the fact that he was so persistent and determined to secure a leave of absence when his commanding officer reported that the service was being injured by the absence of too many of the officers, notwithstanding which, this officer, upon his being refused a leave of absence, tendered his resignation.

A careful examination of the War Department report fails to disclose any evidence that this officer distinguished himself by the performance of any unusual service while in the Army, nor does such record contain even a suggestion of participation in any of the numerous battles with

the Indians which occurred on the frontier. His service was totally devoid of any act entitling him to special consideration.

The conclusion of the majority, appearing on the sixth page of the report, that—

In 1866 and 1867 Captain Beach twice nearly lost his life from Southern fevers, being ill for six months from these severe attacks, lying at New Orleans with yellow fever in the epidemic of 1867—

is unsupported by the record; nor are the other circumstances recited in the same paragraph sustained by evidence beyond the fact that it appears he was on sick leave from December 29, 1865, to January 16, 1866, and on leave from September 7 to November 7, 1866, and on sick leave and surgeon's certificate of disability September to November 8, 1867. He is not reported absent sick for an aggregate of six months, even in the two years of 1866 and 1867; hence the finding contained in the report as to his illness is predicated alone upon the bare assertion of Captain Beach in contradiction of the record.

The War Department report fails to show that he rendered hard or arduous service in the Kiowa and Comanche Indian campaign, or that he was commended for any such service. Nor is the statement of the majority, "that it is known Captain Beach arrested the war chief of the Kiowas at Fort Sill," in the manner set out in such report corroborated by any record evidence.

Nearly all the statements in the majority report justifying favorable action on this measure are unsupported by the War Department report, and attention is directed to the evidence submitted as a part of the majority report for the purpose of inviting comparisons between the conclusions in the report and the evidence.

It is asserted by the majority that for the eight or ten years that Captain Beach has sought this relief bills have received favorable consideration by Congress. An examination of the record shows that in the Fifty-first Congress, second session, a bill (H. R. 12682) for the reappointment of Warren C. Beach a captain in the Army was reported favorably by the House Committee on Military Affairs, but with a most important amendment, reading as follows:

Provided, That the Secretary of War shall cause the said Captain Beach to appear before a retiring board of the Army, and it shall appear by the report of said board that said Beach was entitled to be retired on account of disability at the time of his resignation.

In the Fifty-second Congress, first session, the House Committee on Military Affairs reported favorably a bill (H. R. 4048) containing the same proviso as that recommended as an amendment to House bill 12682, Fifty-first Congress.

A bill similar to the one now pending (H. R. 8715) was considered by the House Committee on Military Affairs, Fifty-third Congress, third session, and the following substitute was reported favorably to the House, viz:

That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to place on the retired list of the Army, with the rank of captain, Warren C. Beach: *Provided*, That the said Warren C. Beach shall not, by virtue of such restoration to the Army, be entitled to back, present, or future pay or allowances of any kind whatsoever.

The following paragraphs in the report of said committee on said bill H. R. 8715, Fifty-third Congress, are added to explain the recommendations of such former committee:

The services of Captain Beach were arduous and commendable for the twenty-one years in which he was connected with the Army. The committee, however, do not

feel justified in recommending the original bill, first, because the services were not of as severe a character or exacting a nature as should commend itself to Congressional action; second, the proofs presented to the committee do not show that he was physically incapacitated from actual service at the date of his resignation; and, third, being a man of middle life, and having sufficient means to sustain him through life, your committee feel that in view of his long service and his honorable record, and in view of the fact that he resigned under circumstances which at least impress the committee with moral duress, it is a fair recognition of his services that he be placed on the retired list with the rank of captain, without any back, present, or future pay, compensation, or allowances.

It therefore clearly appears that no favorable report or action has ever been made or had, so far as the minority can discover, upon a bill designed solely to restore Captain Beach to the Army and place him upon the retired list so as to enable him to enjoy the attendant benefits.

The minority of your committee does not concur in the conclusions in such former report wherein the services of said officer are stated to have been arduous or commendable for twenty-one years, or that he resigned under circumstances involving moral duress. His resignation was merely a matter of choice, and probably prompted by petulance and a desire to resent the restrictions imposed by military law and discipline.

On page 3 of the majority report will be found a communication from the Adjutant-General to the Secretary of War, of date January 12, 1891, in which it is stated that—

the official records afforded no evidence that Captain Beach contracted in the military service disabilities which would entitle him to retirement, and if he had been in the Army at that time he would not have been entitled to retirement by reason of length of service, nor age, nor could he be retired for disability except upon the finding of a retiring board that he had become incapacitated for active duty and that the disability was incurred in the service.

Attention is directed to the fact that Captain Beach resigned because his applications for leaves of absence for one and two months, with permission to apply for extensions of one and two months, were denied him. One of these applications was dated September 14, 1885, within five months after his return to his regiment from an absence of three years and eleven months. Of this time eleven months and four days were on leave and thirty-five months and twenty-five days on special duty at Headquarters, Department of the East, and on leave of absence. The other application for one month's leave and for permission to apply for extension of one month was dated October 6, 1885, five months and twenty-one days after his return, as above referred to. This latter application was disapproved by his regimental commander, Colonel Dodge, General Terry, Major-General Schofield, and the Lieutenant-General of the Army; hence the subsequent application for one month's leave was not forwarded to Army headquarters.

On October 17, 1885, the Secretary of War was appealed to by Hon. William Dorsheimer to grant Captain Beach six months leave of absence; but this was refused and reference made to the officer's long absence and the representations of his colonel as to the injury to the service resulting from the absence of so many of his officers from duty with the regiment.

On November 5, 1885, Captain Beach requested leave of absence until November 1, 1886, at the same time tendering his resignation to take effect on the latter date. He stated that family matters demanding his immediate attention compelled such action, but he failed to enlighten the committee as to the character or importance of the matters referred to. Evidently they were not of sufficient potency to impress the committee favorably or they would have been presented.

This latter request for leave, accompanied by his resignation, was on November 2, 1885, forwarded through the proper military headquarters to the Adjutant-General of the Army.

On November 1, 1885, Captain Beach also wired this officer that his resignation was forwarded with letter requesting leave and asked if he could start at once. This was submitted to the Lieutenant-General of the Army, who, on November 4, disapproved it, but authorized a reply stating that the resignation would be accepted to take effect six months from that time, and leave for that period, and Captain Beach was accordingly advised on that date of such action and accepted the terms proposed by the Lieutenant-General of the Army, whose action was approved by the Secretary of War on the following day.

On May 15, 1886, Hon. Miles Beach, brother of Captain Beach, addressed a letter to the President asking permission to withdraw the resignation, and requesting that Captain Beach be appointed Assistant Adjutant-General, to which requests the President does not appear to have made reply. Four days later Captain Beach addressed the Secretary of War and requested the withdrawal of his resignation and for an extension of his leave to November 1, 1886. This was also declined. On May 31, 1886, Captain Beach asked of the Adjutant-General if his resignation could be dated November 1, instead of June 1, and this was refused on the following day, and Captain Beach on that date ceased to be an officer of the Army.

In the opinion of the minority it would be difficult to find another officer who devoted as much time in such a brief period of service in securing leaves of absence and details to desirable positions away from his company as did Captain Beach. An army afflicted with many such officers might better be dispensed with. If this officer's health was so much impaired when he resigned, as he now claims, he could have appeared before a retiring board and secured retirement and thereby have avoided the necessity of resigning. Since he made no application to be retired for disability we are justified in concluding that he was not disabled for service when he resigned. Nor does it appear that he is now so disabled as to entitle him to retirement under the law even if he were still in the Army, and if in that case he would not be entitled to retirement, the passage of this bill would be rewarding him rather than an act of censure, which he merits, and doing great injustice to those officers who have served faithfully and honorably.

We repeat the concluding paragraph of a letter dated May 18, 1894, from the Adjutant-General of the Army to the Secretary of War on a similar bill then pending in the interest of Captain Beach, as follows:

So much of the bill as proposes to place Captain Beach upon the retired list after restoration is especially objectionable. The retired list was created to care for officers who have been disabled for active duty by wounds, disability, or long service. In the opinion of this office, this list should be carefully guarded, and no one should be placed thereon for the single purpose of restoring him to the Army with pay and without service.

This application is unparalleled in that it ignores all considerations of equity and justice. Congress should place its seal of disapproval upon all attempts of this character in such a way as to constitute a precedent that will deter others from seeking relief in unmeritorious cases.

The minority are of the opinion that adverse action should be taken on the bill.

M. GRIFFIN.
L. J. FENTON.
JOHN McDONALD.

TRUSTEES OF PRESBYTERIAN CHURCH OF FRENCH-
CREEK, UPSHUR COUNTY, W. VA.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be
printed

Mr. COOPER, of Texas, from the Committee on War Claims, submitted
the following

REPORT.

[To accompany House Res. No. 270.]

The Committee on War Claims, to whom was referred the bill (H. R. 3521) for the relief of the trustees of the Presbyterian Church of French-creek, Upshur County, W. Va., submit the following report:

The evidence offered in support of this claim is in the form of ex parte affidavits, and your committee has no opportunity of subjecting the witnesses to a cross-examination, and are therefore of the opinion that this claim should be referred to the Court of Claims, where depositions can be taken in the usual manner prescribed by law, counsel for the Government and for the claimant having the right to cross-examine the witnesses making such depositions; and when the facts shall have been determined by the court upon the legal testimony thus taken and submitted, said facts to be reported to Congress for its consideration; and your committee report herewith a resolution to that effect and recommend its adoption.

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METHODIST EPISCOPAL CHURCH SOUTH, CHARLESTON,
W. VA.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany House Res. No. 271.]

The Committee on War Claims, to whom was referred the bill (H. R. 6853) for the relief of the Methodist Episcopal Church South, at Charleston, W. Va., submit the following report:

The evidence offered in support of this claim is in the form of ex parte affidavits, and your committee has no opportunity of subjecting the witnesses to a cross-examination, and are therefore of the opinion that this claim should be referred to the Court of Claims, where depositions can be taken in the usual manner prescribed by law, counsel for the Government and for the claimant having the right to cross-examine the witnesses making such depositions; and when the facts shall have been determined by the court upon the legal testimony thus taken and submitted, said facts to be reported to Congress for its consideration; and your committee report herewith a resolution to that effect and recommend its adoption.

CITIZENS OF AUBURN, CAL.

MARCH 29, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BISHOP, from the Committee on Private Land Claims, submitted the following

REPORT.

[To accompany H. R. 3606.]

The Committee on Private Land Claims, to whom was referred the bill (H. R. 3606) for the relief of the citizens of the city of Auburn, Cal., and quieting title to lands therein, would respectfully report the same back to the House with the following amendments:

Amend the title so as to read: "A bill confirming the title to certain lands in the State of California."

In lines 7, 8, and 9 strike out the words, "the successors in interest of Moses Andrews, the patentee thereof under the laws of the State of California," and insert in lieu thereof the words, "the State of California," so that said lines 7, 8, and 9 shall read as follows: "is hereby granted and confirmed to the State of California as school land," and that such bill, when so amended, do pass.

That section 10 be stricken out.

The reason for the passage of such bill is better expressed in the letter of J. E. Prewett, a judge of the superior court of the State of California, which is herewith submitted, together with the report of the Secretary of the Interior on such bill.

DEPARTMENT OF THE INTERIOR,
Washington, February 19, 1898.

SIR: I have the honor to inclose herewith copy of a report by the Commissioner of the General Land Office, dated the 17th instant, on H. R. 3606, entitled "A bill for the relief of the citizens of the city of Auburn, California, and quieting titles to lands therein." Said bill was referred by letter of the 10th instant to the Commissioner of the General Land Office, requesting information for the use of the Committee on Private Land Claims.

The Commissioner states in his report that the reason for the proposed measure does not appear from the bill, and the only reason that appears from the records of his office is a possibility that said lands may have been occupied at the date of survey in the field or that the tract may have been classed as mineral at that time and

that the grantee of the State in this case seems to be fully protected without the intervention of legislation for his relief; and he is of the opinion that if it is deemed advisable to pass a measure in the line proposed the grant or confirmation should be made to the State of California and not to some person whose title from the State may or may not be valid, and if any bill confirming the title to said tract is passed the provisions of section 2 should be omitted, as the validity of such a provision in an act of this character is doubtful and might lead to costly litigation.

Very respectfully,

C. N. BLISS, *Secretary.*

Hon. GEORGE W. SMITH,

Chairman Committee on Private Land Claims, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 17, 1898.

SIR: I have the honor to acknowledge receipt, for report in duplicate and return of papers, of House bill No. 3606, Fifty-fifth Congress, first session, entitled "A bill for the relief of the citizens of Auburn, California, and quieting title to lands therein," transmitted to you by Hon. George W. Smith, chairman of House Committee on Private Land Claims, with a request that the committee be furnished with such data as may be in the Department on the subject-matter of such a bill, and for opinion as to the desirability of the passage of such acts and the effect upon the Department.

Said bill provides that the northeast quarter of the northeast quarter of section 16, township 12 north, range 8 east, Mount Diablo meridian, "situated within the limits of the city of Auburn, in the county of Placer, State of California, is hereby granted and confirmed to the successors in interest of Moses Andrews, the patentee thereof, as school land, under the laws of the State of California.

"SEC. 2. That the provisions of section one of this act shall not prejudice or affect the rights of any claimant to the said tract, or any portion thereof, as a mining claim under any location made prior to the date of the approval of this act, and which said mining claim is not open to relocation at the date of the approval of this act."

The reason for this proposed measure does not appear from the bill, and the only reason that appears from the records of this office is a possibility that said lands may have been occupied at the date of survey in the field, or that the tract may have been classed as mineral at that time.

It appears that, under date of December 29, 1887, J. E. Prewett, of Auburn, Cal., filed a preemption declaratory statement for the N. $\frac{1}{4}$ of the NE. $\frac{1}{4}$, sec. 16, T. 12 N., R. 8 E., Mount Diablo meridian, which was rejected by the register and receiver at Sacramento, for the reason that the tract was included in the grant to the State of California for school purposes.

Mr. Prewett appealed from this action, alleging in support of his claim that "the land was occupied with residences and by residents at the time the same was surveyed by authority of the United States and at the time it was segregated to the State," and that "it was at said dates well-known mineral land."

A hearing was ordered to determine the truth of these allegations, but Mr. Prewett subsequently withdrew his application for a hearing for the reason that after a more extended investigation he was "persuaded that the information upon which the affidavit was based was incorrect and that its mineral character at the time indicated in the affidavit could not be established by truthful evidence."

No claim to this tract appears to have ever been advanced by the citizens of Auburn, but two entries of adjoining lands have been made and patented for the use and benefit of the inhabitants of said town.

The plats of survey of township 12 north, of range 8 east, do not show that the land described in the bill is mineral in character; no claims for any portion thereof under the mineral laws appear to have ever been filed, and it appears, so far as the records of this office show, that said tract became the property of the State of California under the provisions of section 6, act of March 3, 1853 (10 Stat., 244).

The grantee of the State, therefore, seems to be fully protected without the intervention of legislation for his relief.

If it is deemed advisable, however, to pass a measure in the line proposed, the grant or confirmation should be made to the State of California, and not to some person whose title from the State may be or may not be valid. If any bill confirming the title to said tract is passed, the provisions of section 2 of the proposed bill should be omitted. If the land was not known to be mineral at the date of survey, the right of the State then attached, and no subsequent discovery of mineral thereon could affect the title; consequently the validity of such a provision in an act of this character is doubtful and might lead to costly litigation.

The papers are returned.

Very respectfully,

BINGER HERMANN,
Commissioner.

The SECRETARY OF THE INTERIOR

AUBURN, CAL., *December 24, 1897.*

MY DEAR SIR: I am in receipt of your two greatly esteemed favors and beg leave to say that upon the receipt of the first I was away from home, and when I returned I neglected from day to day to give the matter attention, intending every day to take it up.

I must beg your indulgence for so doing. I have hastily drawn up a petition to be executed by myself and the board of city trustees, and I will at once go out and see them and procure their signatures thereto. I am sure that they will all at once sign it.

There is not, so far as I am aware or believe, the slightest opposition to the proposed relief measure, and, on the contrary, I think every citizen of the place would readily sign a petition if it were presented to him.

The only alleged defect in the title to the forty acres involved in the bill which you have introduced is this:

In 1855, when the land was surveyed, there existed, running down through the tract, a narrow belt of very rich pay gravel, being from 20 to 50 feet wide along both sides of a small ravine, the hillsides and all the remainder of the tract being wholly barren of all mineral or even the suggestion thereof.

Under the decisions of the Supreme Court of the United States in the well-known cases of *Ivanhoe v. Keystone* (usually quoted as *Mining Company v. Consolidated Mining Company*), *Bugbee v. Natoma Water Company*, and *Sherman v. Buick*, a title to a State section is at least open to question if at the time of the survey it was known to contain mineral. The strip of land above mentioned has been entirely worked out and abandoned for more than thirty years, but in order that those unacquainted with the facts might not hesitate to enact the measure it provides that all rights of persons now claiming mineral rights upon the tract (and there are in fact none) should be unaffected by the act.

Also, in 56 Cal., 642, the supreme court of California has thrown doubt upon titles to school lands on which at the time of the survey a settler resided. No settler resided upon this tract, but a number of miners had cabins thereon, and it will always remain a question whether any of them might, within the meaning of the last-cited case, have been deemed to be settlers.

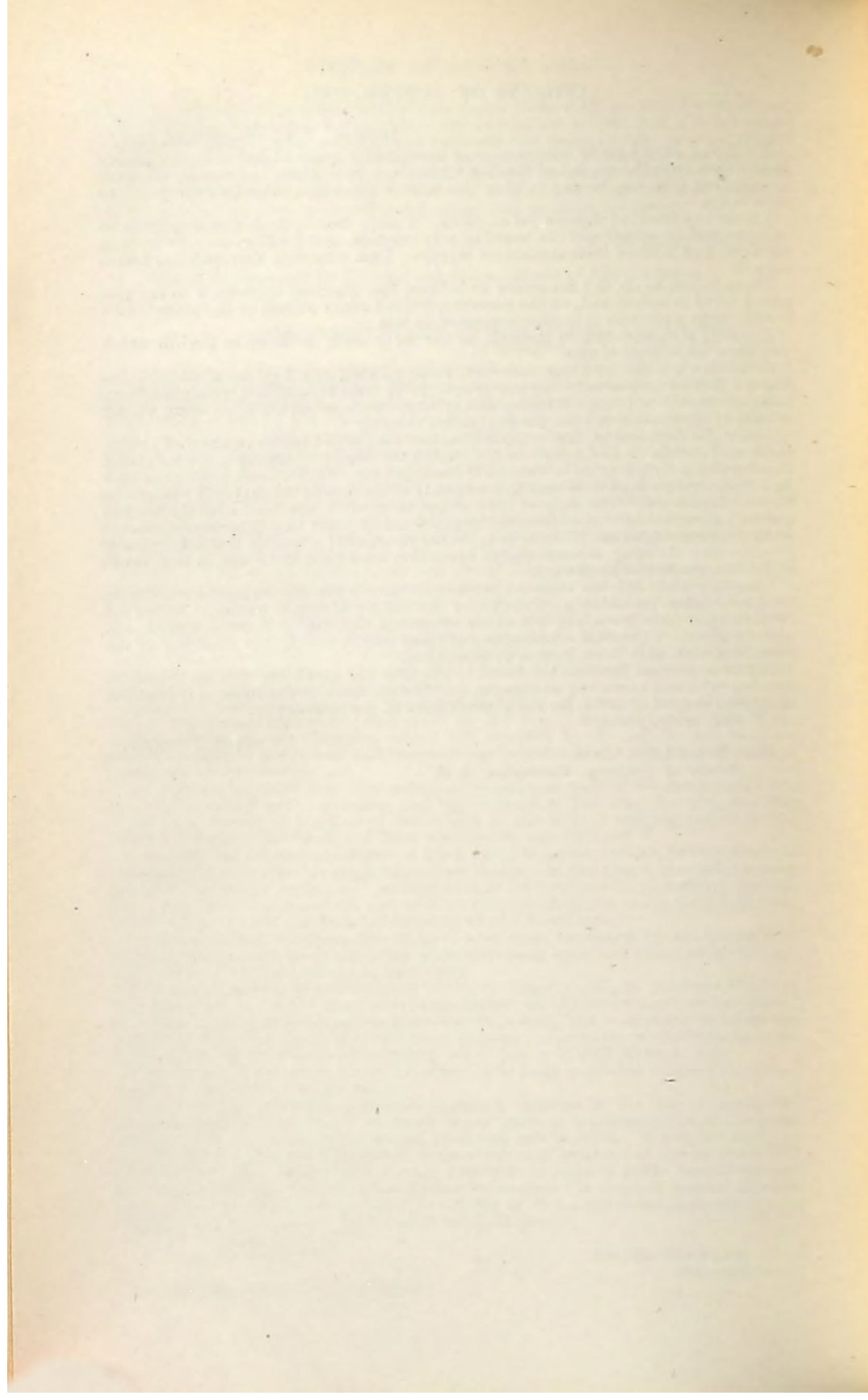
For these reasons the possible defect in the title has given our citizens trouble in making sales and executing mortgages, and the stability of the titles to it ought to be placed beyond question for the general good of the community.

Very truly, yours,

J. E. PREWITT.

Hon. MARION DE VRIES,
Member of Congress, Washington, D. C.

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JOSEPH GRAHAM.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3056.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3056) for the relief of Joseph Graham, have had the same under consideration and beg leave to report as follows:

The records of the War Department show that Joseph Graham enlisted as a private and was mustered into Company B, Seventeenth United States Infantry, on the 8th day of February, 1864, to serve three years. The records further show that he gave his age as 20½ years, while the testimony in the case shows him to have been but 16 years of age at the time of enlistment. There is also strong reasons for believing that the boy was deceived by the recruiting officer as to the character of the service in which he was enlisting; that he was led to believe he was enlisting in the volunteer service for three years, or during the war, whereas he was enlisted to serve three years in the Regular Army and was assigned to Company B, Seventeenth United States Infantry.

He is credited with faithful service until August 2, 1866, when he is charged with desertion.

The facts as gathered from the testimony appear to be that the claimant was seriously injured by the explosion of a mine in front of Petersburg, called the battle of the crater, or by too close proximity to shot or shell, or was overcome by heat. The diagnosis given in the hospital was "sunstroke." He was moved from one hospital to another until the spring of 1865, when he was sent to Harts Island, New York Harbor, at which place the regiment was recruiting. From there he was detailed to Capt. J. J. Emerson, at Springfield, Mass., at a recruiting station. Before the regiment was filled the war was over and he was sent back to Harts Island. From there his company was sent to Texas, and he endeavored to go with the company, but, being a sergeant in one of the new companies, he was detained at Harts Island.

In July, 1866, a disease resembling cholera broke out on the island, causing a great many deaths, and the officers and surgeons soon became either sick or tired out and the men were left to themselves. Graham

had several attacks of the disease, and became so sick that food would not remain on his stomach, and he was kept alive by the use of brandy. While in that condition he asked Lieutenant Lancaster for a pass and received it, the lieutenant evidently believing that if he remained at the island he would soon be beyond the reach of a pass. He took the pass, went to New York City, and then began to think of returning home. He secured and drank some brandy, and then got on a train for Illinois, and was assisted through to Lamoille by the kindly aid of passengers on the train. Having no father or mother living, he went to the home of Richard Ough, who testifies to the fact of his coming, that he wore his uniform, that no effort at concealment was made, and that his wife, since deceased, nursed him through a long spell of typhoid fever, which disabled him from performing any sort of military service for at least eight or nine months, and until some months after his term of enlistment had expired.

Your committee submit that the facts as presented are entitled to fair consideration, and that they show an entire absence of any intention to desert his command, and the constant presence of a determination to do his duty on the part of the soldier, in spite of the deception by which he found himself in the Regular instead of the Volunteer Army, until, as the result of severe sickness at Harts Island, he believed himself in a dying condition and longed to reach his friends before death should occur.

In view of all these facts and the high character and standing of Graham as a citizen, which is abundantly testified to, your committee report the bill favorably and recommend that it do pass with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this Act.



GEORGE ALCOTT.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 1794.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1794) to remove the charge of desertion now standing against George Alcott on the rolls of the War Department, having considered the same, report it back to the House and recommend its passage, with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The evidence shows that this soldier did not return to his regiment after the expiration of his furlough in June, 1865, because on reporting to the proper authorities at Indianapolis, Ind., for the purpose of obtaining transportation to his regiment, he was informed that, as the war was over, no transportation was being furnished to enable soldiers to reach their commands; that he should either remain in Indianapolis or return to his home, and that he would be notified when wanted. He was not notified, and was not present when his regiment was mustered out.

The evidence submitted by officers and soldiers of his regiment seems to support the claims of the petitioner.

The following is the report in the case from the Record and Pension Office, addressed to Senator Manderson:

WAR DEPARTMENT,
Washington City, February 14, 1891.

SIR: In compliance with your request (received to-day) for a transcript of the record in the case of George Alcott, late member of Company C, One hundred and Fifty-second Indiana Volunteers, I am directed by the Secretary of War to inform you as follows:

The official records show this soldier to have been enrolled February 15, 1865, for the period of one year, and to have been mustered into service February 17 following. He appears to have been granted a twenty days' furlough on May 24, 1865, and failing to rejoin his command upon its expiration, he is reported on the company muster-out roll, dated Charleston, W. Va., August 30, 1865, as follows: "Absent; deserted; left Summit Point, Va., May 24, 1865, on twenty days' furlough, and never returned." He is regarded as having deserted June 12, 1865.

The following is a synopsis of the testimony heretofore submitted to the Department in connection with application for removal of the charge of desertion, to wit:

Under date of October 8, 1890, the soldier testified that he received a furlough for twenty days from May 24, 1865, and that upon its expiration he reported to the proper officers at Indianapolis, Ind., on June 13, 1865, for transportation to his regiment, but which was refused him for the reason, as the officers alleged, that they had received orders not to forward any more men, as the war had ended and regiments were about to return to be mustered out; that the said officers took his name and post-office address, and directed him to either remain in Indianapolis or to return to his home, and they would inform him when to return for muster out; that his regiment came back and was mustered out without his knowledge, the said officers having failed to notify him; that he would have rejoined his regiment had he not been prevented from doing so by the officers in power and command at Indianapolis.

There is no record of the man at Indianapolis subsequent to May, 1865.

George E. Young, late lieutenant and adjutant, and George P. Alexander, late captain Company C, One hundred and fifty-second Indiana Volunteers, under dates of October 8 and 9, respectively, testified that upon their arrival home at the close of the war they learned that the soldier had attempted to rejoin his regiment and got as far as Indianapolis, but was unable to go any farther on account of the close of the war.

On January 4, 1890, the Department held that as "this man's service prior to May 1, 1865, amounted to a less period than six months, and as his assertion of reporting at Indianapolis and of being refused transportation is not borne out by the records, favorable action can not be taken under the law, and the application must be denied."

Robert Moore, under date of March 1, 1890, testified that he remembered meeting the soldier on the morning in which he said he was going to his regiment from his furlough; that he (affiant) met the soldier at his gate just as he started, and remembered distinctly what he told affiant, who had every reason to believe that he told the truth, as he had on knapsack, etc., "and is now, and he has been, a man of good reputation."

James Collins testified, March 12, 1890, that he was a member of Company C, One hundredth Indiana Volunteers, and that about June, 1865, while returning to his command from furlough, he met the soldier, also on furlough, at Elkhart, Ind., the soldier declaring that he was going to Indianapolis for the purpose of rejoining his command, to which place affiant accompanied him.

This affiant (Collins) corroborated the soldier's testimony as to reporting to the officers at Indianapolis for transportation to his regiment, and to the refusal of the officers to furnish it, on the ground that his regiment was about to return to be mustered out.

Collins, as a member of Company C, One hundredth Indiana Volunteers, entered the general hospital at Indianapolis on May 17, 1865, and was mustered out there June 13, 1865, on an individual muster-out roll.

On April 15, 1890, the Department held that the additional testimony presented did not warrant a reversal of the former adverse decision, and the application was again denied.

Since that date the status of the soldier has not been changed by the introduction of new testimony.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, United States Army.

Hon. CHARLES F. MANDERSON,
United States Senate.

JAMES HICKS.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 4239.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4239) to complete the military record of James Hicks, formerly captain Company M, Twelfth Regiment Ohio Cavalry Volunteers, having considered the same, recommend that the bill be amended by adding the following: "*Provided, however,* That no pay, bounty, or other allowances shall become due or payable by virtue of the passage of this act," and recommend that as amended the bill do pass.

This is a case of an officer who was in hospital at Nashville, Tenn., with chronic diarrhea, in June, 1865. It is not on record how he got away from hospital, but he did not join his regiment, which was mustered out late in the same year, but it is in evidence that his mind was impaired previous to his sickness. He did gallant service with his command. In January, 1866, his wife joined him in Memphis, Tenn., when that same month he drowned himself, his clothing, papers, etc., being found on the bank of the river. His body has never been recovered.

MONUMENT TO SAMUEL HAHNEMANN.

MARCH 29, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the following

REPORT.

[To accompany H. Res. 96.]

The Committee on the Library, to which was referred the joint resolution (H. Res. 96) relating to the erection of a statue to Samuel Hahnemann, report that it has had said resolution under consideration, and report it back to the House with a recommendation that it do pass.

The following sketch of Hahnemann will indicate the greatness of his character, his remarkable achievements as a scholar, and the beneficent results that have followed his labors in medicine:

He was born at Meissen, Saxony, April 10, 1755. His elementary studies under the guidance of his parents were made an amusement. As his father was strongly opposed to his receiving a university education, his later studies were pursued under most discouraging conditions, but with extraordinary success. In his twelfth year he was appointed instructor in the rudiments of the Greek language. At 20 he was a thorough master of six languages—German, French, English, Italian, Latin, and Greek—and was able to support himself at the university at Leipsic by giving instruction in some of them and translating therefrom into the German. He subsequently became proficient in Arabic, Syriac, Chaldaic, and Hebrew. His medical studies were pursued at the famous centers of learning in Europe. He graduated in medicine with special honors at Erlangen in 1779. He was a member of various scientific societies in Leipsic and other cities, and was highly honored for his researches in chemistry. He was well versed even in those branches of science unconnected with medicine.

Although undergoing many hardships on account of his advanced views, he did not fail of recognition at the hands of the Government. While yet a young man he was made surgeon in chief of the hospital in Dresden, and later superintendent of the insane asylum at Georgenthal, where he inaugurated the mild and humane methods of treating the insane which prevail at this day. In 1812 he was admitted to the faculty of medicine in the University of Leipsic, where he lectured for many years. In 1822 he was created hofrath, or councilor of state.

One of the greatest boons ever conferred upon mankind was the discovery by Hahnemann of an underlying principle of drug action which adds immeasurable certainty to the administration of medicine in disease. This was announced in 1796, in a paper entitled "A new principle for ascertaining the remedial powers of medicinal substances," and ushered in the great reform in medicine that has distinguished this century. He not only discovered a constant relationship between drugs and disease, leading to a more scientific use of medicine, but also with consummate skill pointed out the errors and dangerous practices in medicine which prevailed. He has thus directly and indirectly been the means of an enormous saving of human life, entitling him to the gratitude of mankind, and placing him in the forefront of medical reformers. This distinguished place in medicine is not only assumed by his adherents, but is frankly admitted by distinguished medical men not of his school of practice, as will be observed by the following quotations:

Sir John Forbes, physician in ordinary to the Queen, writes:

No careful observer of his actions or candid reader of his writings can hesitate for a moment to admit that he was a very extraordinary man, one whose name will descend to posterity as the exclusive excogitator and founder of an original system of medicine, as ingenious as many that preceded it, and probably destined to be the remote, if not the immediate, cause of more important fundamental changes in the practice of the healing art than have resulted from any promulgated since the days of Galen himself. He was undoubtedly a man of genius and a scholar; a man of indefatigable industry and of dauntless energy.

John Syre Bristowe, M. D., in an address on medicine before the British Medical Association, says:

That he had learning and ability and the power of reasoning, is abundantly clear. He saw through the prevalent therapeutic absurdities and impostures of the day; he laughed to scorn the complicated and loathsome nostrums which even at that time disgraced pharmacopœias, and he exposed with no little skill and success the emptiness and worthlessness of most of the therapeutical systems which then and theretofore prevailed.

Dissatisfied with the recorded effects of medicinal substances as not sufficiently accurate, he began to ascertain on his own person the effects of various drugs, well knowing the danger to his health and life by doing so. Later he gathered about him others willing to make the sacrifice. Some idea of the colossal task he accomplished can be formed when it is known that his works on materia medica include original provings of 90 different medicines. "When," he writes, "we have to do with an art whose end is the saving of human life any neglect to make ourselves thoroughly masters of it becomes a crime."

Of his industry we may form some opinion from the fact that he wrote upward of 70 original works on chemistry and medicine, and translated 24 from the English, French, Italian, and Latin on chemistry, medicine, agriculture, and general literature, besides attending to a large practice, of which he kept a careful record. He was a good botanist, acquainted with astronomy, meteorology, and geography, and withal a classical scholar.

Such is, in brief, the life of the man whose work has marked an important era in the history of medicine.

That he is deserving of a statue to his memory in the Capitol of the United States does not admit of question.

Such statue the homeopaths of the United State propose to furnish at a cost of about \$75,000.

That the proposed monument is possessed of more than ordinary artistic merit will appear from the following facts:

Twenty-four models were submitted by sculptors from St. Louis, Chicago, Philadelphia, Boston, New Haven, Brooklyn, and New York,

as well as Paris, Rome, and Florence. These were exhibited at the gallery of the American Academy of Fine Arts, in New York, during the week beginning February 4, 1895. The monument committee, together with an advisory committee of the National Sculpture Society, consisting of Messrs. Daniel C. French, George E. Bissel, Olin N. Warner, representing the sculptors, and Thomas Hastings and Russell Sturgis, representing the architects, unanimously awarded the first prize to the American sculptor, Charles H. Niehaus, and his design was accordingly adopted for the monument.

The following letters from the National Sculpture Society and its distinguished president voice the opinion of the highest authority on art in this country:

NATIONAL SCULPTURE SOCIETY,
New York, February 14, 1898.

SIR: The National Sculpture Society has the honor to acknowledge the receipt of your favor of February 7, the contents of which have been noted.

I am instructed by the society to say in reply that, in its opinion, Mr. Niehaus, the sculptor of the Hahnemann monument, has carried out, in an able and satisfactory way, the original conception of the monument as shown by the model which the society had already approved. It is the opinion of the society that the monument is worthy of a prominent site, and will contribute to the adornment of the city of Washington.

I am, sir, your obedient servant,

BARR FERREE, *Secretary.*

Dr. HENRY M. SMITH,
Secretary and Treasurer.

NEW YORK, *February 9, 1898.*

MY DEAR DOCTOR: The National Sculpture Society examined and reported favorably upon the artistic merit of the bronze statue of Hahnemann and the reliefs last Tuesday.

Personally, I congratulate the committee upon having secured a work of exceptional merit. All of the sculptors are enthusiastic about it.

You should be gratified at the result of your work as a committee. I sincerely hope the authorities in Washington will give you a site worthy of the monument.

Yours, truly,

J. Q. A. WARD.

Your committee think that there should be no hesitation or delay on the part of the United States in accepting the statue.

SALARY OF POSTMASTER AT WASHINGTON, D. C.

MARCH 29, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BINGHAM, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT.

[To accompany H. R. 4747.]

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 4747) fixing the salary of the postmaster at Washington, D. C., have given the same consideration, and respectfully report the bill to the House with the recommendation that it do pass.

Herewith accompanying is a copy of a communication from the Postmaster-General to the chairman of the subcommittee of the Committee on the Post-Office and Post-Roads of the House of Representatives, in which are stated the controlling reasons for the passage of this bill.

From the facts given it is obvious that the large amount of business handled at the Washington post-office, which is not made fully apparent by the gross receipts of the office because of the great volume of free Government business, would warrant the adjustment of the salary in accordance with the bill.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 20, 1898.

SIR: I beg to acknowledge receipt of your favor of the 19th instant, inclosing House bill 4747, which provides that the salary of the postmaster at the city of Washington, D. C., shall be \$6,000 per annum, beginning the 1st day of July, 1898.

In this connection I desire to draw your attention to the following facts, submitted in my letter of the 13th instant to the Committee on Post-Offices and Post-Roads, United States Senate:

Date.	Gross receipts.	Number clerks.	Carrier stations.	Sub-stations.	Stamp agencies.
1882-83	\$292, 756	160	2	4	23
1894-95	586, 866	303	6	34	42

By the act of March 3, 1883, paragraph 4, 22 Stat. L., 602, embodied in Postal Laws and Regulations, section 409, edition of 1893, the compensation of the postmaster at Washington, D. C., was fixed at \$5,000 per annum, when on the basis of the gross receipts of the office at that time (\$292,756) the salary would have been placed, under section 410, Postal Laws and Regulations, edition of 1893, at \$3,700 per annum. It was clearly the intention of the act above referred to to increase the salary of the postmaster at Washington to the extent of \$1,300 per annum to provide for the increased service performed by him in view of the large amount of governmental franked mail matter then handled through his office. Since 1883 the gross receipts of the Washington office have increased \$294,110.42, or 101 per cent. The commercial matter revenue of the Washington post-office to-day entitles the postmaster to a salary of \$5,000 per annum, and on this basis, plus \$1,300 increase in the year 1883 allowed the postmaster at that time, the salary would reach \$6,300 per annum, irrespective of the increase in governmental franked matter from that period.

In addition to the information shown above, the bond of the postmaster was increased on November 11, 1894, from \$100,000 to \$200,000. The postmaster at Washington, D. C., has always on hand a supply of postal cards amounting to between two and three hundred thousand dollars for distribution to other offices.

In report of the Postmaster-General for the fiscal year ended June 30, 1895, appeared a tabulated statement showing the registered business of the Washington City post-office as ranking third in the United States. Chicago, the second city in the United States in point of gross receipts, handled 3,272,677 packages during the fiscal year, and Washington, D. C., 2,944,173 packages. The value of the governmental business passing through the Washington City registry division amounted to \$698,250,862.82. In addition, commercial pieces to the value of several millions of dollars were also handled.

A fair guide by which to arrive at the amount of business carried on by the Washington City post-office can be secured by comparison with the clerk hire allowance and number of men employed at several of the \$6,000 offices. Comparative statement is shown below:

Office.	Salary of postmaster.	Gross receipts.	Number clerks.
Buffalo, N. Y.....	\$6,000	\$650,743	138
Pittsburg, Pa.....	6,000	642,797	156
Cleveland, Ohio.....	6,000	614,584	119
Washington, D. C.....	5,000	586,866	303

If the clerical force and the gross receipts of the Buffalo post-office are used as a factor, then the gross receipts of the Washington post office on the basis of commercial rates would amount to \$1,428,645; if Pittsburg is taken the gross receipts would be \$1,248,360; Cleveland, \$1,564,692.

You, of course, are familiar with the present law, which provides that when the gross receipts of an office exceed \$600,000 the salary of a postmaster shall be fixed at \$6,000 per annum.

In view of the foregoing facts the salary of the postmaster at Washington should, in my opinion, be at least \$6,000.

I shall be very glad to furnish you any additional information that you may desire in this matter.

Very respectfully,

JAMES A. GARY,
Postmaster-General.

Hon. HENRY H. BINGHAM,
Committee on the Post-Office and Post-Roads, House of Representatives.

MINING CLAIMS.

MARCH 29, 1898.—Laid on the table and ordered to be printed.

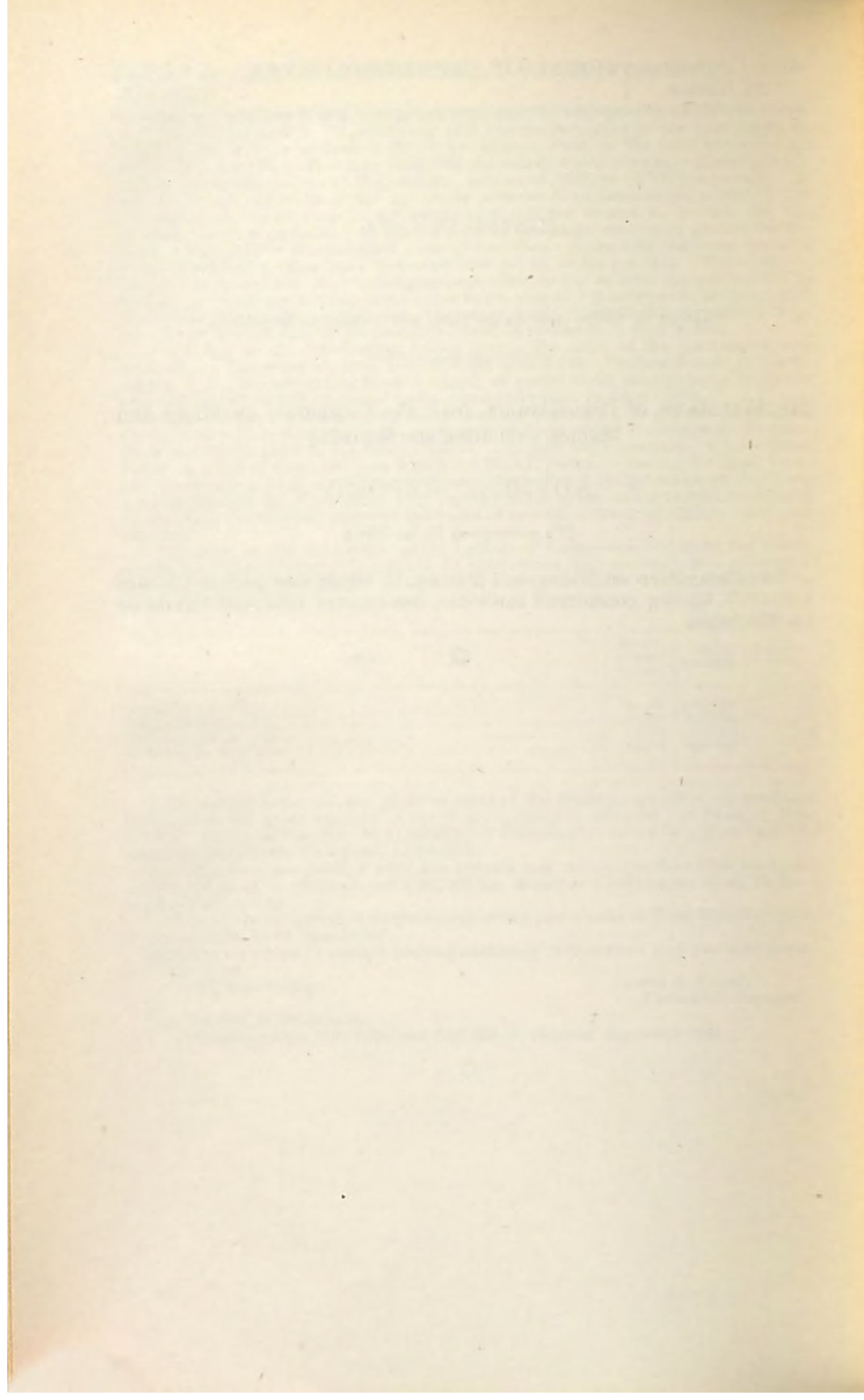
Mr. WILLIAMS, of Pennsylvania, from the Committee on Mines and Mining, submitted the following

ADVERSE REPORT.

[To accompany H. R. 1099.]

The Committee on Mines and Mining, to which was referred House bill 1099, having considered the same, recommend that said bill do lie on the table.





EDWARD C. PARSONS.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JETT, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 2646.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2646) for the relief of Edward C. Parsons, having considered the same, would submit the following report thereon:

It is shown by the records of the War Department that Edward C. Parsons, aged 18 years, was enrolled at Ann Arbor, Mich., September 24, 1862, and mustered into service October 10, 1862, in Company B, Twenty-seventh Michigan Infantry, to serve three years. He appears to have served faithfully until April 9, 1863, when he is reported as having deserted from Camp Wirner, Ypsilanti, Mich.

While a deserter at large he enlisted at Detroit, Mich., August 4, 1863, in Company B, First Michigan Cavalry, in violation of the twenty-second (now fiftieth) article of war. He was captured in Virginia June 11, 1864; paroled at Charleston, S. C., December 16, 1864, and sent to Camp Parole, Md., where he reported December 22, 1864. He was forwarded to Camp Chase, Ohio, in December, 1864, where he reported March 1, 1865, and was sent to his regiment April 9, 1865. He appears to have served faithfully thereafter until June 29, 1865, when he is reported as having deserted again. He did not rejoin his company, which remained in service until March 10, 1866; but on the presentation of testimony as to his physical inability to complete his second term of enlistment the charge of desertion was removed and he was furnished with a certificate of discharge as of the date of his reported desertion.

Applying for removal of the charge of desertion as of Company B, Twenty-seventh Michigan Infantry Volunteers, he submitted testimony to the War Department as follows:

The affidavit of Solomon Armstrong, a resident of Ann Arbor, Mich., who declared that he was at the depot when Sheriff Winegar took Parsons, under a writ of habeas corpus, from the train to his home.

Affidavit of Daniel C. Winegar, who testified that the soldier was released from service upon a writ of habeas corpus served by his brother, Philip Winegar (now deceased), at that time sheriff of Washtenaw County, Mich.; that the writ was issued at the instance of applicant's father when the former was with his company at Ypsilanti, Mich., and that affiant "conveyed" his brother (the sheriff) to the train to serve the warrant.

F. E. Winegar, the son of the sheriff referred to, corroborated the testimony of the preceding affiant.

Upon this presentation of the case applicant's attorney was informed that upon receipt of a certified copy of the decree or order of the court upon which the soldier was released from military duty the case would be further considered.

In reply the attorney submitted a letter, of which the following is a copy:

ANN ARBOR, MICH., *November 30, 1894.*

MY DEAR SIR: I have made a very careful examination of the records in reference to the proceedings had for the release of Edward C. Parsons, drummer boy in Company B, Twenty-seventh Michigan Infantry, and I am unable to find any record of such proceedings.

ARTHUR BROWN, *County Clerk.*

SIMON LYON.

The War Department says that in the absence of any record of the issuance of a writ of habeas corpus in the case of the soldier, it is held by that Department that the testimony presented does not warrant relief under any of the provisions of the act approved March 2, 1889, the only law in force at the time the application was made governing the subject of the removal of charges of desertion.

Your committee submit that the only objection made by the War Department to the removal of the charge of desertion, still standing upon the record against the soldier, rests in the fact that no certified copy of the proceedings under the writ of habeas corpus could be furnished it; but as writs of this character were issued in many instances by court commissioners and other inferior court officers upon whom such powers were conferred by the statutes of the State, and no record being kept thereof unless the proceedings should by proper methods be taken into a court of record for final determination, no record other than the papers themselves would in such case be in existence.

The soldier should not suffer in consequence of the failure of the officer, even if required by law to file the papers where a record would be made and kept thereof. If, therefore, the writ of habeas corpus was actually issued and served, and the proceedings had thereunder were such as to compel the soldier by proper order, lawfully made, to leave his company and command, he could not be termed a deserter in any sense of the word.

Your committee is satisfied, from an examination of the proof which has been submitted to it, that the writ of habeas corpus was issued and executed in this case, and that by virtue of the legal proceedings had thereunder the soldier, upon the application of his father, was released from military service in Company B, Twenty-seventh Michigan Infantry, and hence no charge of desertion should properly have been entered against him on the record.

Your committee therefore recommend that the bill do pass, with the amendment to the bill, which is as follows:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

BRONZE TABLET COMMEMORATIVE OF OFFICERS AND
MEN WHO PERISHED IN BATTLE SHIP MAINE.

MARCH 29, 1898.—Committed to the Committee of the Whole House on the state of
the Union and ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the
following

REPORT.

[To accompany S. R. 113.]

The Committee on the Library, to whom was referred the joint resolution (S. R. 113) providing for the erection of a bronze tablet in some suitable place in the Capitol Building commemorative of the officers and men of the United States Navy who perished in the loss of the battle ship *Maine* in the harbor of Habana, February 15, 1898, submit the following report:

The committee propose to amend the resolution by inserting in the title after the word "Navy," in line 3, the words "and Marine Corps," and in line 6, after the word "Navy," the words "and Marine Corps."

The loss to the Marine Corps by the destruction of the *Maine* was greater in proportion than that of any branch of the service. Out of 39 marines 28 were killed outright, 11 were saved, and of these 11 6 were badly wounded.

With these amendments your committee respectfully recommend the passage of the Senate resolution.

THE UNIVERSITY OF CHICAGO
LIBRARY

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WILLIAM HAZELBECK.

MARCH 29, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FENTON, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 8854.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 8854) to correct the military record of William Hazelbeck, of Portsmouth, Ohio, having examined the same, recommend that it pass as amended.

In line 5, after the word "Ohio," insert the words "late bugler of Company H, Eleventh Regiment Ohio Volunteer Cavalry," and after the word "discharge," in line 7, add the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by reason of the passage of this act.

According to the report received from the War Department, which is appended hereto, it appears that this soldier "was present with his command at its muster out," and that "there is nothing to show that he was in a status of dishonor at that time;" also that it had been determined by the Department "that he was honorably mustered out with his company July 14, 1866."

It is therefore the opinion of your committee that the charge of desertion should be removed.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, June 28, 1897.

SIR: Referring to your letter of the 14th, received on the 15th instant, in which you requested that the military record of Mr. William Hazelbeck, of Portsmouth, Ohio, late bugler, Company H, Eleventh Regiment Ohio Cavalry Volunteers, be furnished you, and referring also to the letter addressed to you by this Department on June 15, 1897, in which you were informed that it had been found necessary in the investigation of the case to call upon another Department of the Government for certain essential information, I am directed by the Secretary of War to inform you that the records show that one William Hazelback (also borne as Hazelbeck) was enrolled August 1, 1863, and mustered into the service March 7, 1864, as a private in Company

H, Eleventh Ohio Cavalry Volunteers, to serve three years. He appears to have served faithfully until October 12, 1865, when he deserted, remaining absent from his command without authority until on or about July 1, 1866, when it appears that he returned thereto. No record has been found showing whether any action was taken relative to the charge of desertion standing against him.

Inasmuch as he was present with his command at its muster out, and as there is nothing to show that he was in a status of dishonor at that time, it has been determined by this Department that he was honorably mustered out with his company July 14, 1866.

It will be noticed that this soldier was absent in desertion from October 12, 1865, until on or about July 1, 1866, when he returned to his command; but inasmuch as he did not return to his command within a reasonable time, the charge of desertion can not be removed under the provisions of the act of Congress approved March 2, 1889, which is the only law now in force governing the subject of the removal of charges of desertion.

Very respectfully,

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

Hon. L. J. FENTON,

House of Representatives.



DISTRICT OF COLUMBIA SUBURBAN RAILWAY COMPANY.

MARCH 30, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. RICHARDSON, from the Committee on the District of Columbia,
submitted the following

REPORT.

[To accompany H. R. 9417.]

The Committee on the District of Columbia have considered the bill (H. R. 7395) to amend the charter of the District of Columbia Suburban Railway Company, and report a substitute for the same, which is herewith submitted as H. R. 9417.

The bill 7395 was duly submitted to the Commissioners of the District, who made report thereon with certain amendments relating to the route, etc. The committee, after careful consideration, adopted the changes suggested by the Commissioners in the main, and, as stated above, appear in the substitute offered by the committee.

The Commissioners were not satisfied with the terminus of the road at Florida avenue and Twelfth street NE., nor were the committee, and therefore it is recommended that the road be extended down Twelfth street to Lincoln Park. This route will bring the passengers on the suburban railroad across the Columbia Railroad at H street NE., the Eckington and Soldiers' Home Railroad at C and D streets NE., and to the Metropolitan Railroad at Twelfth street and Lincoln Park.

The motive power of the line of the road on Twelfth street, south of Florida avenue, will be by underground electricity and by double track. The section of the city and of the District outside of the city covered by this road now has no railroad facilities. The people resident along the line have for years petitioned Congress for a road, and the committee can see no possible objection to granting the charter.

The line when finished will reach the old and historic town or village of Bladensburg, and lying immediately on the route is the famous duelling grounds. The bill is properly worded, and its passage is recommended.

The committee recommend that the original bill, 7395, do lie on the table.

JOHN H. SMITH.

MARCH 30, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FENTON, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3190.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3190) granting an honorable discharge to John H. Smith, having considered the same, present the following report:

It is found from the evidence on file that this soldier enlisted August 12, 1862, as a private in Company B, One hundred and twenty-fourth Ohio Infantry Volunteers; that his age at that time was but 16 years; that he served faithfully in said command until January 6, 1863, when he deserted at Spencer, Ohio. It also appears from the evidence that he was permitted to go to his home on sick leave and was prevented from returning to his regiment by his father and others. He enlisted afterwards in Company F, Twelfth Ohio Cavalry Volunteers, in which command he served faithfully from October 23, 1863, to May 15, 1865, when he was honorably discharged.

A letter from the captain of the company from which he deserted and the report from the War Department are appended as a part of this report.

In view of the youth of this soldier and the influences brought to bear upon him, together with his subsequent faithful service, your committee recommend the passage of the bill as amended, by adding the following after the last word in line 9:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington, March 11, 1898.

SIR: Referring to your letter of the 9th instant, received to-day, in which you request a statement of the record of John H. Smith, late of Company B, One hundred and twenty-fourth Ohio Infantry Volunteers, I have the honor to inform you as follows:

It is shown by the records that Hamilton Smith, who is believed to be identical

with the subject of your inquiry, was enrolled August 12, 1862, as a private in Company B, One hundred and twenty-fourth Ohio Infantry Volunteers, to serve three years. He appears to have served faithfully until January 6, 1863, when he deserted at Spencer, Ohio.

While a deserter at large he enlisted, October 23, 1863, under the name John H. Smith, as a private in Company F, Twelfth Ohio Cavalry Volunteers, in violation of the twenty-second (now fiftieth) article of war, to serve three years. He appears to have served faithfully in that company and regiment, and was mustered out of service with a detachment on May 15, 1865.

The application for removal of the charge of desertion and for an honorable discharge in the case of this soldier as of Company B, One hundred and twenty-fourth Ohio Infantry Volunteers, has been denied, and now stands denied, on the ground that the period intervening between the date of his desertion from that company and regiment and the date of his second enlistment exceeded four months, and because the case does not come within any of the other provisions of the act of Congress approved March 2, 1889, the only law now in force governing the subject of removal of charges of desertion.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

Hon. W. S. KERR,
House of Representatives.

MEDINA, OHIO, *January 6, 1896.*

DEAR SIR: Hamilton Smith, of Troy, Ashland County, Ohio, enlisted in Company B, One hundred and twenty-fourth Ohio Volunteer Infantry, on the 12th day of August, 1862; was mustered into the service of the United States on the 16th day of September, 1862, and in the latter part of December, 1862, deserted from said service.

At the time of his enlistment he was in his sixteenth year, only, and I am clearly satisfied that his desertion was brought about by the bad influence of others rather than by any lack of patriotism on his part, for the records show that he entered the service of another regiment, in which he did good service and from which he was honorably discharged.

I was captain of the company from which he deserted at the time of same, and I most cheerfully and heartily recommend and request that the charge of desertion from Company B, One hundred and twenty-fourth Ohio Volunteer Infantry, be removed by act of Congress.

Very respectfully, yours,

G. W. LEWIS.

Hon. W. S. KERR, M. C.,
Washington, D. C.

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ARTICLES IMPORTED FOR TEXAS STATE FAIR AND EXPOSITION FREE OF DUTY.

MARCH 30, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany H. Res. 14.]

The Committee on Ways and Means, having had under consideration House joint resolution No. 14, report that the Texas State Fair and Dallas Exposition Association is located in Dallas, Tex., and has held thirteen successful State fairs. The attendance at these fairs, with possibly the exception of one other, is greater than that of any other fair in the United States. Several of the States in our sister Republic of Mexico have indicated a willingness and desire to send an exhibit to this fair, and it is thought that the National Government of Mexico will also furnish an exhibit. The importance of this, in inspiring and continuing the fraternal feeling now existing with our sister Republic, can not be overestimated.

The committee is also informed that a large majority of the central and western States of the Union have exhibits at this fair every year, and these fairs have been a most important factor in upbuilding and improving the agricultural, horticultural, and live-stock interests of that great and growing State. Your committee recommend the adoption of the following amendments:

Amend the title by inserting after the word "and" and before the word "Exposition," in line 2 of the title, the word "Dallas," and striking out after the word "and," in line 3 of the title, the word "ninety-seven" and inserting the word "ninety-eight."

Amend section 1 by inserting after the word "and" and before the word "Exposition," in line 5, the word "Dallas," and striking out after the word "in," in line 5, the word "October." In line 6 strike out the word "ninety-seven" and insert the word "ninety-eight."

Further amend section 1 by adding the following proviso:

And provided further, That all necessary expenses incurred, including salaries of customs officials in charge of imported articles, shall be paid to the Treasury of the United States by the Texas State Fair and Dallas Exposition Association, under regulations to be prescribed by the Secretary of the Treasury.

The proviso inserted by the committee to the joint resolution is suggested by the Secretary of the Treasury, and with this proviso the resolution meets with his approval.

The committee therefore recommends the adoption of the resolution as amended.

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JOHNSON HAYS.

MARCH 30, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 310.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 310) granting a pension to Johnson Hays, have examined the same and the evidence relating thereto and respectfully report:

This bill authorizes and directs the Secretary of the Interior to add to the disabilities for which the soldier, Johnson Hays, is now pensioned at \$16 per month, his disability resulting from "hernia, hydrocele, and three broken ribs on left side."

The evidence shows that these injuries were received by the soldier while in line of duty during a battle. He failed to include all his disabilities in his declaration, and on technical grounds the Bureau has refused to include these disabilities. The Senate report (No. 247) states the facts and is annexed.

Your committee, after careful consideration, concur in its conclusions and recommend the passage of the Senate bill, when amended as suggested, which leaves the rating with the Bureau. The effect of the bill is to give a pensionable status for these disabilities.

As the bill does not grant a pension, the title should be amended so as to read: "An act for the relief of Johnson Hays."

[Senate Report No. 247, Fifty-fifth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 310) granting a pension to Johnson Hays, have examined the same, and report.

A similar bill passed the Senate and was reported favorably in the House during the first session of the Fifty-fourth Congress. The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

HISTORY OF CLAIM.

The above-named Johnson Hays, in his original declaration, asked for a pension on account of rheumatism only. He says he did this on the advice of his then attorney, who said the proper course was to claim on only one disability at a time. Claimant

says he was at that time suffering from hernia and three broken ribs, but that rheumatism then disabled him most for the performance of manual labor. The hernia has since resulted in hydrocele, and he is now entirely incapacitated for the performance of manual labor, and says he can not earn any portion of his support, and is a constant sufferer, much of the time requiring the care of another person. Claimant was pensioned for rheumatism, and says that, as he was receiving some assistance from his said pension, he neglected to present any claim for hernia and broken ribs as long as he could earn his support. In September, 1890, he presented his application for increase for cause for which he was pensioned, and also for new cause based on hernia of right side and hydrocele and three broken ribs in left side. On this application he was granted an increase on cause for which pensioned (rheumatism) from \$12 to \$16 per month. The claim for increase for new cause (hernia and broken ribs) was rejected on the ground that there was no record of said disabilities, and that claimant had failed to show their origin in service or existence soon after discharge.

There is a rule of long standing in the Pension Office that "where there is no hospital record or record of medical treatment while in the service, and no medical proof of existence soon after discharge, lay testimony taken years afterwards will not be accepted as proof of incurrence while in the service."

It was in compliance with this rule that his claim was rejected.

ORIGIN OF NEW DISABILITIES.

Said Johnson Hays, under date of September 23, 1890, testifies that during the battle of California, in Missouri, on or about the 9th day of October, 1864, he was detailed as "every fourth man" to hold horses. The horses became unmanageable by reason of fighting and kicking, and in mounting at the bugle call their plunging jerked him onto the horn of his saddle and broke three ribs in his left side, over the nipple, and otherwise wrenched and strained him severely, especially through the back and loins. There was a severe pain in his left groin, but the pain of his broken ribs and back was so great that he did not mind it so much at the time. This was during the "Price raid." There was no local hospital, and the accommodations for the sick and injured were so poor he did not go to the surgeon, but kept the saddle day after day, but did not perform any camp duty. These broken ribs still cause him pain, and prevent him from obtaining his support by manual labor in a great measure.

He also further declares that soon after the battle of California he was prostrated by rheumatism in camp near Jefferson City, Mo., and was confined to his bed, and required help to turn himself. While thus prostrated he suffered with severe pain in left groin; a lump raised, and has developed into hernia, small at first, and small at the time he first applied for pension, but has become very severe, so as to render him unable to perform any manual labor.

He further declares that the surgeon who treated him at that time has been long dead, and that he knows of no one who knew of the existence of this hernia at the time, except his two brothers, Z. T. and Franklin Hays, and J. B. Skidmore, who took care of him at the time. He has never been treated for hernia, but has been compelled to use a strong truss and pad for many years.

Under date of February 4, 1892, in his affidavit to the Commissioner of Pensions asking that his claim be made "special," said Johnson Hays states that—

"The disability from said 'new cause' has rendered me entirely unable to perform any manual labor or to stand on my feet any length of time. I have no means of support or income aside from my pension, except what I am able to obtain as tender of a gate in the Kansas City Union Stockyards. They gave me this position out of sympathy, at a small salary. I do not have to walk, and have a seat near by. I can not stand on my feet but little. It is more than I am able to do, and have to be absent often on account of my disabilities. My pension is not sufficient to furnish the necessaries for my family, and what I do is work of absolute necessity.

"I know I incurred these disabilities while in the service of the United States, and I believe I am entitled to pension for it. This disability has greatly increased lately, and very soon I will be compelled to give up all efforts to earn any portion of my support.

"I therefore respectfully ask that my claim be made special and receive your early consideration."

Said Johnson Hays further testifies that on or about 7th day of October, 1864, when on duty with his company and regiment in Cole County, Mo., engaged in the defense of Jefferson City, Mo., being stationed with his command in advance to resist the rebel army approaching under command of the rebel general Price, and having to be exposed to heavy rains, he there and then contracted severe cold, settling in his back and hips, which resulted in rheumatism. Though suffering from the effect of the pain in his hips and back, he still continued to try to do duty. He got some liniment

and used it at different times, which gave him temporary relief, and continued to do duty, and on account of the pain in his back he was employed as a cook in his company, for the reason that he suffered less pain at that employment than to be sent out as scout on horseback, which caused him great pain. After his discharge he continued to suffer from the effects of his alleged disability and grew worse, so that he became confined to his bed, and could not turn over in bed without the aid and assistance of others. At this time when he became so bad it was in the fall of 1865, and he has never recovered from the effect of said disability, and still continues to suffer, and suffers more owing to the change of the weather or any overexertion, which causes him to cease any kind of work for some time.

Johnson Hays further testifies:

"I was never treated by any surgeon while in the Army, and was never in the hospital, although I was unable to perform active duty, and so spent my time in cooking, the boys carrying the water and wood for me; and can not furnish testimony of a commissioned officer or first sergeant, as they are now dead, and Orderly Sergeant Wellhouse was not with the command toward the latter part of the war; he was with a squad of men building a stockade, and Dr. Lea is the only doctor who ever treated me."

The Adjutant-General of the War Department, in a communication to the Commissioner of Pensions, reports as follows:

"Johnson Hays, a private in Company B, Twenty-seventh Regiment Missouri Mounted Volunteers, was enrolled on the 24th day of July, 1861, at Warrensburg, three years, and is reported: Rolls or returns from enlistment to December 31, 1862, not on file.

"Mustered out with company January 27, 1862, at Benton Barracks, Mo., by reason of the force failing to complete regimental organization.

"Regimental hospital records are not on file."

The records of the War Department further show that—

"Said Johnson Hays enrolled as a private in Company G, Seventh Missouri State Militia Cavalry Volunteers, on the 24th day of March, 1862, at Warrensburg, for three years, and is reported on roll dated April 30, 1862, present, and so borne to February 28, 1865. Mustered out with company April 20, 1865, at Warrensburg, Mo.

"Regimental hospital records furnish no information.

"The records of this office furnish no evidence of alleged disability."

Under date of April 6, 1891, James M. Wood testifies as follows:

"I have been intimately acquainted with Johnson Hays, the above-named soldier, since 1860. I served in Company F, Seventh Regiment Missouri State Militia Cavalry Volunteers, while he was a member of Company G of the same regiment, three years. We were intimate as companions before our enlistment in the service of the United States and continued very intimate during our whole service, being together a great deal while in camp.

"I remember, at the battle of California, Mo., in October, 1864, said soldier got badly hurt and was very sore for some time. I understood at the time and believe it was from being thrown onto the horn of his saddle by horses he was detailed to hold. I did not examine him, but he told me at the time he had three ribs broken, and I have since felt them. He also claimed he was severely wrenched otherwise. I knew the high pommels and backs of our saddles were bad for us, and often men got jerked onto them and were severely injured. I remember while encamped near Jefferson City, Mo., in the fall of 1864, said Hays was sick with rheumatism, but I was not with him much. I lived a near neighbor to him most of the time since our discharge and know he has suffered severely from rheumatism, and also know he has a very bad rupture; it can easily be seen through his clothing. He claims it was caused either by being hurt on his saddle or severe straining while sick with rheumatism. I believe it might have been caused by his saddle. I know he has suffered with it for many years past, and that it has grown worse, so that he can not lift any or do many kinds of work at all on account of it. I know him to be a very candid, truthful man, and do not believe he would make a fraudulent claim. He is a man of good morals, very conscientious, strictly temperate, and of good repute in the community where he resides."

Under date of April 6, 1891, Pickney Lightle testifies as follows:

"I have been acquainted with the above-named soldier ever since I was a small boy. We were schoolmates and grew up near neighbors. We both enlisted and served together in the same company in the United States service in the war of 1861-1865.

"Previous to our enlistment Johnson Hays was a healthy, strong boy and man; I never knew or heard of his being disabled in any way. I knew he suffered from severe exposure and privations while in the service and was troubled with diarrhea. I remember at the battle of California, Mo., on the 9th day of October, 1864, he was detailed to hold horses, and remember he got hurt while thus employed and was released from camp duties on account of it. He claimed, and I believe, he was hurt by being jerked onto the horn of his saddle and broke three ribs and was otherwise

badly wrenched. Our saddles were bad shape, and a good many men were injured by them. I also remember, in the fall of 1864, while in camp near Jefferson City, said Hays was very sick with rheumatism, so he could not help himself. He complained a good deal after that of pains in different parts of his body. After our discharge I know he was sick a good deal and unable to work, and very soon after complained of a rupture. He said he had felt a soreness there ever since the battle of California, and more especially after he was sick with rheumatism. I believe the jerking of his saddle, in making charges and at other times, was sufficient to cause rupture. He has suffered ever since his discharge and is now unable to perform any regular manual labor. He is a good citizen, of good morals, temperate habits, and of good repute in the community where he resides."

Under date of August 4, 1891, Zachariah T. Hays testifies as follows:

"I am a brother of the above-named Johnson Hays. I was a member of the same company, and served with him in the war of 1861-1865. There were three brothers of us in the same company, and as a matter of course we were deeply interested in each other's health and welfare, and were on terms of very close and confidential intimacy during our service.

"I remember the above-named Johnson Hays was seriously injured at the battle of California, Mo., and that he complained to us of the injuries received at that time during all the rest of our service, and that at the time of our discharge he was weak and suffering from rheumatism, and was told he was also suffering from a rupture. I remember in the winter of 1864-65, while we were in camp near Jefferson City, Mo., he was very sick with rheumatism and required a good deal of care.

"I was suffering very severely with sore eyes and could not help take care of him; nor was I able to assist in caring for him during his sickness after our discharge on account of my eyes, but I remember distinctly his injury from broken ribs at the battle of California, and other injuries, his severe sickness near Jefferson City, Mo., and that his health was exceedingly poor after our discharge as long as I lived in Missouri. I left there in 1889, since which time I have not seen him, and do not know his present condition."

Under date of August 4, 1891, Franklin Hays testifies as follows:

"I am a brother of Johnson Hays, the above-named soldier, and was a member of the same company in the war of the rebellion. I was engaged in the battle of California, Mo., on the 9th day of October, 1864, and remember that the said Johnson Hays was detailed to hold horses, and while thus employed had three ribs broken, and was otherwise severely wrenched and injured, so that he was released from all camp duty, but kept the saddle while on the march. We were often hurt by being jerked onto the pommels of our saddles. In the winter after this battle, while we were camped on the Osage River near Jefferson City, Mo., he was taken sick with the rheumatism and suffered severely. I took care of him, and know that portions of the time he could not turn himself in bed or help himself in any way. At this time he also complained of severe pain in his right groin; this pain troubled him at times during all the rest of our service. He was troubled with rheumatism at the time of our discharge in April, 1865, and was taken down soon after, and was unable to do any work all that season. While I was taking care of him at this time he called my attention to his groin, and I examined him. I found a purple spot and a ridge raised up, and it was very tender and sore. It would yield to pressure, but would not stay to place. I told him then it was a rupture, and afterwards heard the doctor who treated him say it was a rupture. This physician has been dead a long time. From that time it grew worse, until it compelled him to use a truss. He could not lift, or run, or jump.

"I am satisfied and believe it was first caused at the battle of California, and was made worse by jerking and jarring in the saddle after that. It continued to trouble him and grow worse as long as I remained in Missouri. I left there in 1889, since which time I have not known anything about his condition except what he has told me in his letters."

Under date of August 17, 1891, J. B. Skidmore testifies as follows:

"I was a member of Company G, Seventh Regiment Missouri State Militia Cavalry, in the war of 1861-1865, and am well acquainted with the above-named claimant, Johnson Hays, who was a member of the same company. Said Hays and I were bunk mates, and were very intimate in our acquaintance. I was sick at the time of the battle of California, Mo., on the 7th of October, 1864, but know from reports, and believe that said Johnson Hays was engaged in said battle and severely injured there. I understood he had three ribs broken, and was severely wrenched and injured. He complained of a severe pain in his right groin from this time, more or less, during all the rest of our service. I also remember that during the winter of 1864, while we were in camp near Jefferson City, Mo., said Hays was very sick with rheumatism and required a great deal of nursing.

"I helped take care of him during his sickness, and he often complained of this pain in his groin. I know his health continued poor from that time, and he was

weak at the time we were discharged. Soon after our discharge Hays was taken down again with rheumatism and was unable to work, and all that season and during that sickness I understood a rupture developed in his right groin. This continued to trouble him and finally required him to wear a truss, and continued to trouble him as long as I met him. We were raised in the same neighborhood, and were playmates while boys, companions while young men, messmates in the Army, and neighbors after our discharge until about the year 1885. He was healthy and strong prior to enlistment, and suffered from rheumatism and this rupture from the time of our discharge. I have not met him often since about 1885, and do not know his personal condition."

Under date of January 23, 1892, Harrison Hayes testifies:

"I am well acquainted with the above-named soldier. I met him first here in Kansas City, Mo., about five years ago, and for the past three years our acquaintance has been quite intimate. I have met him almost daily when I have been able to be up, and he has called at my house when I have been sick. I know his health is very poor; he is troubled with rheumatism and diarrhea, and I know he has a very bad hernia on both sides. I know he has worked at tending a gate in the stockyards, but he can not do any work that requires any lifting or stooping, and I can not see how he can do anything at all. He is constantly failing, and I do not believe he is free from pain at any time.

"He has a family to support, and I am satisfied all his work is from compulsion. He ought not, in justice, do any kind of work or stand on his feet, and the time must soon come when he can not, under any circumstances, do anything."

Under date of January 12, 1885, James B. Skidmore again testifies:

"That he is the identical person who served as a corporal in Company G, Seventh Regiment Missouri State Militia Volunteers, and knows the above soldier (Johnson Hays), who was a member of Company G, Seventh Regiment Missouri State Militia, and that on or about the — day of — in the fall of 1864, while in the line of duty, and without fault or improper conduct on his part, at or near Jefferson City, State of Missouri, said soldier incurred rheumatism near Jefferson City, waiting an attack from General Price, and was exposed to beating rains while on the raid. He was in active duty. He was mustered out in the spring of 1865, and in the fall was taken to his bed and confined until April, 1866, and has been in poor health up to this present date, not being able to do more than half a man's labor. And would further state that on entering the Army he was a well and healthy man."

Under date of February 22, 1886, Henry J. Adams testifies:

"That he is the identical person who served as a hospital steward in Company A, Seventh Regiment Cavalry Missouri State Militia Volunteers, and knows the above soldier (Johnson Hays), who was a member of Company G, Seventh Regiment Missouri State Militia; that on or about the — day of October, 1864, while in line of his duty and without fault or improper conduct on his part, at or near Castle Rock, Osage River, State of Missouri, said soldier incurred or contracted rheumatism by exposure while in line of duty. For three or four days our command lay on picket duty, expecting an attack from General Price, and was without tents or any shelter, and while there, lying on the bank of the Osage River, there was a heavy rain storm, and we were all soaking wet, from the effect of which he has never up to this day recovered; was present at the time and was subject to the same exposure, and the soldier was not afflicted before this time, but on going to leave on this occasion he was so stiff and complained so he could with difficulty mount his horse. Served with soldier throughout the war, and have lived a near neighbor since the war up to the present date, and know him to be afflicted with rheumatism, and has been since October, 1864. Also, I know that he has been treated by Dr. J. L. Lea frequently since I returned from the Army, who has always been the family doctor."

Dr. J. L. Lea, under date of May 19, 1886, testifies as follows:

"I have been practicing over forty-three years, and I know Johnson Hays, the claimant, from a youth up to the commencement of the war of 1861, and was his father's family physician from 1845 up to the time of the claimant's marriage, and was claimant's family physician up to the commencement of the war of 1861, and have no knowledge of ever giving him any treatment; and after his enlistment I moved to Kentucky, and returned home in April, 1867, and was then his family physician for some five or six years, and my recollection is that during that time I must have treated him for rheumatism and nervous trouble of hip and lumbar region, and then he moved from the neighborhood, and I have no knowledge of treating him since.

"(And being old and nervous is the cause of me not writing my statement in my own handwriting.)"

Mark Reavis, under date of January 23, 1885, testifies:

"That he has been acquainted with claimant from a boy, and previous to enlistment in said military service he was a stout and healthy person, never was known to suffer from any of the effects of rheumatism in any manner whatever; but after

his discharge from said service he does know of his personal knowledge that he became confined to his house, and was suffering from what was called rheumatism, and was under the medical treatment of Dr. J. L. Lea; and that he has been suffering from rheumatism more or less, and that he has not been able to perform manual labor about half the time upon an average.

"His means of knowledge are derived from the fact that they have been near neighbors of each other since the war, often seeing him and knowing of his complaining of his suffering."

Under date of December 23, 1895, R. M. Box, late captain Company H, Seventh Cavalry, Missouri State Militia, testifies:

"The affiant says the claimant (Johnson Hays) enlisted at the same time that the affiant enlisted, and the affiant says that the claimant was a neighbor boy before they enlisted. Affiant says he took a great interest in the claimant while in the service on account of being neighbors before enlistment. The affiant says that in the fall of 1864 at or near California, Mo., the Seventh Missouri State Militia Regiment was engaged in a battle. The cavalry was ordered to dismount and fight on foot. The claimant was ordered to hold the horses. During the battle the horses became unmanageable, and the claimant was badly hurt by the horses rushing together and crushing him.

"The affiant says he saw the claimant in the evening after the battle, and the claimant told him he was badly hurt. He said he thought some of his ribs were broken, and that he had received an injury in his groin. He saw the claimant the next day; he told me he was not able to sit on his saddle. The affiant says that from that time (fall of 1864, the time of the battle at California, Mo.) the claimant was able to do but little duty until his discharge. Affiant says that after claimant's discharge he still complained of the hurt in his groin, and he told the affiant that the injury had terminated in a double rupture. The claimant also had rheumatism from the time of his hurt until his discharge."

From the foregoing evidence your committee is of the opinion that the bill ought to pass when amended by striking out in the eighth line the words, "is not pensioned."



JOHN A. BINGHAM.

MARCH 30, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8181.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8181) granting a pension to John A. Bingham, have considered the same and most respectfully report:

This bill proposes to pension, at \$50 per month, John A. Bingham, of Ohio, who was commissioned major and judge-advocate of volunteers, to rank from January 12, 1864, and was honorably discharged August 3, 1864, on tender of resignation.

No record of medical treatment while in service.

He has never applied for pension at the Pension Office under any law. It is not alleged that he has any disability due to service, but he is undoubtedly entitled to \$12 under act of June 27, 1890. It is shown by evidence before this committee that soldier is 83 years of age, is very feeble, and nearly helpless physically and mentally, and is in very straitened circumstances financially, owing to causes beyond his control.

The accompanying statement, marked Exhibit A, as to his public services has been filed with this committee.

The distinguished and meritorious services of this soldier during his military career were of incalculable value to the country in its most perilous days. We had a Grant, a Sherman, a Sheridan, a Thomas, a Hancock, and other great generals at the front, but all their ability and valor would have been of no avail without the aid of equally great and brave men at the capital of the nation to meet and nullify the fire in the rear, which was just as dangerous to the cause of the Union as were the armies of the Confederacy. One of the ablest, most patriotic, and fearless of these was Maj. John A. Bingham.

In his old age and necessitous circumstances a grateful country will gladly give this reasonable and merited pension to one of its most distinguished soldiers. In fixing the amount at this reasonable sum your committee is mindful of the society in which the beneficiary has been accustomed to move, and is disposed to give relief that shall not only "keep the wolf from the door," but make the old soldier feel that one republic is not ungrateful. His necessities are great, and he requires almost constant aid and attendance.

The bill is reported back with the recommendation that the title be amended so as to read: "A bill for the relief of John A. Bingham."

CADIZ, OHIO, *February 17, 1898.*

We, the affiants, citizens and residents of Cadiz, Ohio, have known John A. Bingham all our lives and are personally acquainted with his physical and pecuniary condition. He is now 83 years of age, is very feeble, and is nearly helpless physically and mentally, and is in very straitened circumstances financially, owing to causes beyond his control.

We believe him worthy and entitled, on account of his national and army services, to a liberal pension, and to that end we pray the passage of a bill of relief according to him sufficient to sustain him during his apparent short life.

Charles M. Hogg, ex-senator; M. J. McCoy, attorney at law; J. M. Sharon, cashier Harrison National Bank; M. J. Brown, president F. and M. National Bank; D. Cunningham, president Harrison National Bank; C. O. F. Brown, cashier F. and M. National Bank; W. B. Hearn, publisher Cadiz Republican; D. B. Welch, president First National Bank; J. C. Moore, cashier First National Bank; J. M. Schreiber, cashier Fourth National Bank; H. B. Law, county auditor; Robert Stewart, county treasurer; E. B. McNamee, probate judge; George W. Glover, ex-senator; Thomas Arbaugh, county recorder; J. C. Glover, postmaster; Amon Lommon, attorney; S. B. McGarvan, ex-representative; James B. Jameson, ex-State senator; Walter G. Shotwell, attorney; John S. Pearce, attorney; John C. Jameson, ex-senator.

STATE OF OHIO, *Harrison County, ss:*

Sworn to before me, a notary public in and for said county, this 18th day of February, 1898.

[SEAL.]

R. N. MINTEER, *Notary Public.*

Case of John A. Bingham, late major and judge-advocate-general of volunteers.

The records show as follows:

John A. Bingham, of Ohio, was commissioned major and judge-advocate of volunteers January 15, 1864, to rank from January 12, 1864, and he accepted the commission January 18, 1864. He is reported as on court-martial duty at Washington, D. C., from the date of the acceptance of his commission to May 18, 1864, when he was directed to proceed to Cadiz, Ohio, to await orders. He remained at Cadiz, Ohio, awaiting orders until July 27, 1864, when he was assigned to duty in the War Department. He was honorably discharged the service, in special orders from this Department dated August 3, 1864, on tender of resignation.

Nothing has been found of record to show that this officer received medical treatment while in service.

Respectfully submitted.

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,

War Department, March 21, 1898.

The SECRETARY OF WAR.

History of John A. Bingham.

Admitted to the bar, 1840; district attorney for Tuscarawas County, Ohio, for four years, from 1846 to 1849; elected to the Thirty-fourth, Thirty-fifth, Thirty-sixth, Thirty-seventh, Thirty-ninth, Fortieth, Forty-first, and Forty-second Congresses.

He was appointed judge-advocate with the rank of major, United States Volunteers, by President Lincoln, who also appointed him United States solicitor for the Court of Claims and afterwards appointed him United States district judge for Florida, which last was declined. During his Congressional service he was chairman of the Judiciary Committee and drafted the first article of the Fourteenth Amendment to the Constitution of the United States. As judge-advocate he tried the Surgeon-General of the United States before a court-martial, and also tried before a military court the assassins of Abraham Lincoln. He conducted the impeachment trial of Judge Van Humphries, United States district judge, and also acted as chairman of the House of Representatives committee on the trial at the bar of the Senate of the United States of Andrew Johnson.

He was also appointed, and served in that capacity, as envoy extraordinary and minister plenipotentiary of the United States at the court of Japan for a period of twelve consecutive years.

ANN M. SMITH.

MARCH 30, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9043.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9043) granting a pension to Ann M. Smith, have examined the same and the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$8 to \$30 per month the pension of Ann M. Smith, of St. Louis, Mo., as widow of the late Maj. Gen. Andrew Jackson Smith.

General Smith entered the United States Military Academy at West Point July 1, 1834, and was graduated July 1, 1838. He was commissioned as second lieutenant of First United States Dragoons and received various promotions until he reached the rank of colonel in the Regular Army, January 5, 1889. He was placed on the retired list January 22, 1889, and died January 30, 1897.

His pay as colonel was \$3,500 per year, and \$320.83 additional after five years' service, and when on the retired list \$2,843.75 per year. As major-general it was \$7,500 per year, and as brigadier, \$5,500 per year.

He was in the volunteer service from October 2, 1861, to January 15, 1866. Was mustered colonel Second California Cavalry Volunteers and resigned November 13, 1861; was commissioned brigadier-general of volunteers March 20, 1862, and major-general of volunteers May 14, 1864. At the close of his volunteer service he rejoined the Regular Army, and served as before stated until placed on the retired list. His services were long, distinguished, and meritorious, but not especially brilliant.

He died at the advanced age of 82 years, and there is no claim that his death was caused or hastened by disease or disabilities incurred in the service.

He was kind and generous to his old comrades and died poor, leaving a widow now about 80 years of age. She draws the pension, given by our general laws, of \$8 per month, which is the maximum allowed to the widows of general officers whose death is not due to service. The bill as amended increases this \$22 per month solely on account of the rank of her deceased husband.

Our laws granting pensions to widows on account of the service of

the husband has made no distinction between the widow of the private and the widow of the officer. It is a departure from the policy of these laws to grant an increase to the widows of general officers solely on the ground of rank. Special and meritorious cases are occasionally brought to the attention of your committee where such departure is justified, and this is one. The long, meritorious, and faithful service of the soldier and the age and necessities of the widow make this an exceptional case where Congressional action is warranted.

It will be said that general officers, like General Smith, ought, from their pay when in service and when on the retired list, to save enough to make their widows comfortable. Whatever may be said on this line, your committee answer that it is not the fault of the widow that he did not, and a grateful and generous Government will see to it that she has a reasonable sum to sustain her in her old age. In giving this increase we keep in mind the necessities of the hundreds of thousands of soldiers and soldiers' widows now on the pension rolls, of those constantly being added, and also the increasing disabilities and necessities of all who have so bravely defended the nation in its hours of peril.

Conservative and consistent action in special legislation will meet the approval of all, and your committee is of the opinion that no charge of extravagance or favoritism will be made when reasonable increases are given the aged and necessitous widows of brave and distinguished general officers. Bills reported from your committee, giving this increase to \$30 per month to the widows of General Pile and General Stevenson, have already met the approval of the House.

Where the death of the general officer is shown to be the result of disease or disabilities contracted in the service, your committee has fixed the limit of increase at \$50 per month, as in the cases of the widows of General Leggett and Commander Cushing. The distinction that always has obtained in our general legislation and in special legislation must be maintained here.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 6, strike out "Mrs."

In line 7, after the word "Smith," insert "and pay her a pension."

In line 7, strike out "one hundred," and insert in lieu thereof "fifty."

At the end of line 8 add: "in lieu of the pension she now receives."

Amend the title so it will read: "A bill granting an increase of pension to Ann M. Smith."

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 10, 1898.

DEAR SIR: Referring to H. R. 5080 and my remarks in connection therewith, I beg to say that I intimately knew Maj. Gen. A. J. Smith for thirty years prior to his death on January 30, 1897, at the advanced age of 82 years.

I have also been familiar with his financial circumstances. His charity gifts to poor old soldiers kept his little life income constantly exhausted, so that he died without means. His widow has no means of support except a Mexican war pension of \$8 per month, and the old general's friends have had to care for her. She is close on to 80 years of age, is very feeble, and in all probability will not survive more than a couple of years, if indeed she lives that long.

I earnestly hope that the committee will speedily report the bill, so that the old lady can have a little comfort in her last days. She lives in my district.

Very respectfully, yours,

CHAS. E. PEARCE,
Member of Congress, Twelfth District, Missouri.

Hon. GEO. W. RAY,
Chairman, Committee on Invalid Pensions.

WILLIAM E. RYAN vs. HENRY C. BREWSTER.

MARCH 30, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. MAGUIRE, from the Committee on Elections No. 2, submitted the following

REPORT.

[To accompany House Res. No. 273.]

The Committee on Elections No. 2, to which was referred the contested election of William E. Ryan *v.* Henry C. Brewster, from the Thirty-first Congressional district of the State of New York, makes the following report:

Contestant and contestee were the Democratic and Republican nominees, respectively, for Representative in Congress from the Thirty-first Congressional district of the State of New York at the general election held on November 3, 1896.

According to the official returns, 44,600 votes were cast at the election for Member of Congress, of which contestant, Ryan, received 17,109, and contestee, Brewster, received 25,399, giving contestee an apparent plurality of 8,280 votes. Upon these returns the certificate of election was given to contestee, by virtue of which he now holds the contested seat.

On January 13, 1897, within the time allowed by law, contestant duly served on contestee a notice of contest, wherein the grounds of contest were stated as follows:

You are hereby notified that I shall contest your right to occupy a seat in the House of Representatives of the United States as the Representative of the Thirty-first Congressional district of the State of New York in the Fifty-fifth Congress on the following grounds:

I. Because you are not the duly and legally elected Representative from said district to said Congress.

II. Because I am the duly and legally elected Representative from said district to said Congress.

III. Because of the wrongful and unlawful use at each and all the voting places in the city of Rochester, in said district, on the day of election, of the Myers ballot machine instead of the lawful and proper ballot boxes, the voters of such precincts were required to make use of said machine at such election.

IV. Because that at each and all voting places in the city of Rochester, in said district, on the day of election, no written or printed ballots were used by the voters who wished to vote or who attempted to vote for Representatives in Congress.

V. Because at each and all the voting places in the city of Rochester, in said district, on election day the election officers returned as having been duly and lawfully cast and counted a large number of votes, to wit, 31,354. Whereas no votes for Representative in Congress were legally cast and counted within said district.

The voters in the said city were not provided with lawful and proper means of casting their votes and having the same counted.

VI. Because at each and all of the voting places in the city of Rochester, in the said district, no provisions were made for the lawful casting of the votes of the voters who wished to vote for Representatives in Congress, notwithstanding which the officers of election wrongfully and unlawfully returned as having been cast and counted for the various candidates for Congress 31,354 votes, the same being largely in excess of the whole number of 13,306 votes lawfully cast and counted in the other portion of said Congressional district.

On January 30, 1897, in due time, contestee served his answer to the notice of contest, wherein he specifically replied to the grounds of contest as follows:

In answer to the notice served by you on me * * * I state as follows:

I. That I am the duly and legally elected Representative of said district to said Congress, and that you are not elected such Representative.

II. I admit that Myers ballot machines were used in the voting places of the city of Rochester, and the votes were cast by said machines, and such votes were counted by the election officers; but I say that the said machines were used in conformity with the statutes of the State of New York in such case made and provided, and the resolutions of the common council of the city of Rochester adopting the said Myers ballot machines in compliance with law, to be used at such election for Representatives in Congress; and the said machines were lawful and proper ballot boxes under the laws of the said State; and the voters of the said election precincts lawfully made use of the said machines at such election.

III. That the ballots used by the voters in said precinct wishing to vote for Representative in Congress were such as were provided by law, and in conformity with the laws of the State and the resolutions of the common council of the city of Rochester.

IV. That the election officers in the voting places in the city of Rochester returned the votes that were cast for Representative in Congress in conformity with law, and the said votes were lawfully cast and counted.

V. The provisions made for the casting of votes of voters wishing to vote for Representative in Congress in the said city of Rochester were in all respects in compliance with the law and in conformity with the resolutions of the common council of said city, and the officers of election properly counted and returned the same.

VI. The votes cast in the other precincts of said Congressional district were cast under the general provision of the laws of the State of New York, and in ballot boxes as used in said State, and were counted and returned as provided by the laws of the said State; and, of the votes thus cast and counted for Representative in Congress in said district, a large majority were cast for me, and by reason of the premises I was legally elected a Representative to Congress for said district.

The first and second allegations of the notice are too general to constitute specific statements of grounds of contest within the meaning of the United States statute requiring contestant to specifically state in his notice the grounds of contest; but in so far as testimony has been taken, without objection, concerning the number of votes cast for either of the parties, it will be considered.

All other issues made by the pleadings of the parties relate to the legality of the record of votes made by the Myers ballot machines, which it is alleged and admitted were used exclusively at all of the voting precincts in the city of Rochester as a substitute for tickets printed on paper.

There is no allegation in the notice of contest that contestant was deprived of any votes that were legally cast for him; nor that the exclusion of the votes alleged to have been unlawfully cast through the Myers ballot machines in the city of Rochester, and unlawfully counted, would, either alone or in connection with other facts, change the result of the election; nor that any of the electors of the city of Rochester, if they had been permitted to vote legally, would have cast their votes for contestant; nor that any elector of the city of Rochester, who would have voted for contestant or for any other person than contestee, sought to cast a legal ballot at such election, or to vote otherwise than through the Myers ballot machine.

It not only does not appear from the allegations of the notice of contest that contestee was, either directly or indirectly, guilty of any wrongful act in connection with the election in question, but it does not appear from such allegations that contestant was in any way injured, or deprived of any votes; nor that contestee derived any advantage of any kind whatever by reason of all or any of the matters complained of.

In all contested election cases the notice of contest must show prima

facie that the acts and conditions complained of were not only wrongful or unlawful, but that the elimination of the effects of the acts and conditions complained of would change the result of the election in question. In the absence of such prima facie showing, the notice of contest is insufficient to support a decision, either that contestant was elected or that contestee was not elected.

The general rule is that a contestant's case is limited to the allegations of his notice of contest. While he may establish his case by proving less than he has alleged, he can not make a case by proving more than he has alleged. (McCrary on Elections, sec. 394; Paine on the Law of Elections, sec. 824.)

If, therefore, the evidence fails to establish either the first or the second allegation of contestant's notice—that is to say, either that contestant received a plurality of the votes actually cast, or that contestee did not receive a plurality of such votes—the contest should be dismissed because of the insufficiency of the remaining allegations (if conceded to be true) to constitute a cause of contest.

There is evidence tending to show that while 31,354 electors voted in the city of Rochester at the election in question, the Myers ballot machine recorded only 29,658 votes for all candidates for Representative in Congress.

There is no evidence tending to show, except in one voting precinct, that any part of this discrepancy of 1,696 votes, between the total number of electors voting in the city of Rochester and the number recorded by the machine as voting for Representative in Congress, was caused by the failure of the ballot machine to record votes sought to be cast through its agency.

In the one precinct mentioned—the third of the Fifteenth Ward—the contrivance for voting the straight Democratic ticket seems to have been out of repair, and in a great many cases—possibly in 193, but probably in less than 150 cases—failed to register the votes of Democratic electors. Efforts were being made during the day of election to repair this defect, but without avail.

It is quite probable that nine-tenths of the discrepancy between the total number of votes cast for Representative in Congress in the city of Rochester and the total number of electors registered as voting at the election was due to the very generally observed fact that, when any new device for the conduct of elections is introduced, from 2 to 5 per cent of the electors who actually vote for some candidates fail to vote for candidates for all offices to be filled.

With the exception of the third precinct of the Fifteenth Ward there is no evidence to the contrary in this case.

But conceding that the entire discrepancy was due to the failure of the machine to record votes sought to be cast by electors, it would be immaterial, because if all such votes had been cast and counted for contestant the result of the election would not have been affected thereby.

This is the only evidence in support of the first allegation of the notice of contest; and it fails to sustain that allegation.

The same evidence tends to support the second allegation of the notice, namely, that contestee was not elected. The additional evidence in support of this allegation is that of the 44,660 votes cast for Representative in Congress in the entire district, 31,354 were cast in the city of Rochester by means of a mechanical contrivance known as the "Myers ballot machine," all of which votes, it is claimed, were illegal and should be excluded from consideration.

It further appears that of the votes cast in the city of Rochester,

contestant received 12,211 and contestee 17,447, while in the entire district contestant received 17,109 votes and contestee 25,399 votes. Assuming that the votes cast in the city of Rochester were all illegal and, on that ground, excluding them from consideration, contestee would still have a large plurality of the votes admitted to have been legally cast and properly returned.

Assuming that all votes sought to be cast through the ballot machine were illegal, and that, by reason of such illegality, through an honest mistake of law on the part of the State authorities having the conduct of the election in charge, there was no election for Representative in Congress in the city of Rochester on November 3, 1896, contestee, having received a plurality of the votes cast at the election, would be entitled to retain his seat, unless it should appear from the evidence, either directly or presumptively, that if the qualified electors of the city of Rochester had been given an opportunity to vote the result might have been changed.

In this case there is no such showing, but, on the contrary, it appears from the undisputed evidence that if the qualified electors of the city of Rochester had been given an opportunity to vote in the manner asserted by the contestant to have been legal, the plurality of contestee would have been largely increased.

But it appears from the evidence that the electors of the city of Rochester did have an opportunity, at their option, to vote a written or printed paper ballot, which is provided for by law as part of the Myers ballot machine system of voting. Such paper ballots were provided at each polling place in the city of Rochester, to be used in voting by such electors as chose to use them. Although it appears from the stipulation of the parties that none of such paper ballots were actually voted, the fact remains that all electors had full opportunity to use such ballots in voting, and the fact that they chose not to do so will not vitiate an election which was otherwise fairly and legally conducted. It therefore follows that contestee was duly elected to Congress, regardless of the legality or illegality of the machine system of voting at Congressional elections, provided for by the law of the State of New York.

The views above expressed render it unnecessary to pass upon the legality of the Myers ballot machine as a means and method of voting for Representatives in Congress under the statutes of the United States.

We therefore recommend the adoption of the following resolutions:

Resolved, That William E. Ryan was not elected a Representative to the Fifty-fifth Congress from the Thirty-first Congressional district of the State of New York, and is not entitled to a seat therein.

Resolved, That Henry C. Brewster was elected a Representative to the Fifty-fifth Congress from the Thirty-first Congressional district of the State of New York, and is entitled to a seat therein.

JAMES G. MAGUIRE.
JOSEPH M. BELFORD.
WALTER L. WEAVER.
M. E. OLMSTED.
GEO. M. DAVISON.
L. W. ROYSE.
J. M. ROBINSON.
FRANK G. CLARKE.

I concur in the conclusion.

JNO. W. GAINES.

FIRST BAPTIST CHURCH, OF CRAB ORCHARD, KY.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DAVISON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 8969.]

The Committee on War Claims, to whom was referred the bill (H. R. 8969) for the relief of the First Baptist Church, of Crab Orchard, Ky., submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Forty-sixth Congress, a copy of which is hereto attached and made a part of this report.

Your committee report back the bill and recommend its passage.

[House Report No. 1496, Forty-sixth Congress, second session.]

The Committee on War Claims, to whom was referred the petition in behalf of the Crab Orchard Baptist Church, of Kentucky, respectfully report:

That in October, 1861, the officers in command of the Federal forces at Crab Orchard took possession of the Baptist Church at that point and converted it into a hospital for the Army. They held possession until October, 1864. During this whole time the congregation were excluded from the use of their building. The Government, while holding possession, did not take care of said property, but allowed the soldiers to waste and damage the property. The pulpit was destroyed, the pews removed and destroyed, the windows damaged, plastering knocked off, the weatherboarding partly removed. This was all over and above ordinary wear and tear. The damages are proved to be \$505 by the oaths of parties who were present at the time, some of whom were carpenters, and estimate it from personal knowledge and experience. The rent is proved to be worth \$200 per annum. This is sustained by the oaths of nine respectable witnesses, as well as the damages to the building. The account, as made up, is \$1,105, and is fully proven in every particular.

At the time this property was seized no battle had been fought or was likely to be fought in that part of the country. War was not flagrant there at that time. The country was in the peaceable, undisturbed occupation of the Government, and the processes of its courts were regularly executed, and they were open at regular intervals provided by law. No military necessity existed for the seizure or continued occupation of this church. It was purely a matter of choice. The Government has

never paid anything either for its prolonged use or to put it in such order and repair as when taken. No tribunal has had jurisdiction to settle this claim, nor has it been at any time presented or acted upon by the Government. This is a just claim, and the Government is in honor bound to pay it. The rules established by the Quartermaster's Department, by which they settle such claims, is to pay a reasonable rent and such amount as will put the church in as good order as when received. By that rule, which is fair and equitable, this claim should be settled.

The principles involved in the settlement of this claim were recommended by Alexander Hamilton, when Secretary of the Treasury, and are recognized by all writers on international law. The Government has settled many claims of this character during the wars in which it has been engaged, commencing with the Revolutionary war and ending with the last. The principles on which this claim is allowed are fixed by the report made during this session by this committee in the case of the Somerset Baptist Church, to which reference is here made. We report back a bill (H. R. 6250) for that purpose, with a recommendation that it do pass.



HENRY J. FLEMING.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JETT, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3991.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3991) for the relief of Henry J. Fleming, beg leave to submit the following report:

The report of the War Department shows that said Henry J. Fleming was enrolled January 16, 1864; mustered into service April 8, 1864, as a private in the Eighty-first Regiment Illinois Infantry Volunteers to serve three years.

That he was afterwards admitted to the post hospital, Camp Yates, near Springfield, Ill., with measles and pneumonia, and was furloughed March 1, 1864, and is reported as having deserted April 10, 1864. That he was arrested as a deserter May 23, 1864, at Jefferson City, Ill., by the provost-marshal, thirteenth district, Illinois, and delivered May 23, 1864.

At the regimental post, Cairo, Ill., record further shows that he was released May 31, 1864. The records of the War Department fail to disclose any reason or grounds for his release on the 31st of May, 1864.

Your committee, after carefully investigating this case, have arrived at the conclusion that the said Henry J. Fleming was not a deserter, but that after having been sent home on a furlough, as the records of the War Department show, he was then and there unable to, and remained unable to, return to the company and regiment.

At the time he was released, May 31, 1864, he was still unable to enter the service on account of the severe illness that he had contracted after having entered the service, viz, measles and pneumonia, and remained unable; in fact, in such physical condition that it was impossible for him to return and enter the service.

Being satisfied that the said Henry J. Fleming was not a deserter, the committee recommend that the bill do pass, giving to the said Henry J. Fleming an honorable discharge, with the following amendment:

Change the word "sixty-two" in line 8 to "sixty-four," making the bill read, after the enacting clause:

The Secretary of War is hereby authorized and directed to remove the charge of desertion from the military records of Henry J. Fleming, who served in Company G, Eighty-first Illinois Infantry, during the late war, and grant him an honorable discharge to date April first, eighteen hundred and sixty-four.

The testimony of witnesses shows conclusively that the said Henry J. Fleming was unable to return to his company and enter the service

at any time after having contracted measles and pneumonia in February, 1864.

Applicant testified as follows:

In 1864, about the latter part of January, he contracted the measles and was sent to the hospital at Camp Yates, Ill., and, being better, was granted a furlough for twenty days. After the expiration of said time he returned to his regiment, Company G, Eighty-first Illinois Infantry Volunteers, at Memphis, Tenn., and sustained a relapse of heavy fever, the result of said measles, and was ordered to Camp Butler, Ill. While in said camp he got worse and weaker, and was ordered by Captain Lamb, in charge of said camp, to go home. One Joe Addison, of Company G, Ninth Regiment Illinois Infantry, whose time had expired and who was at that time at said Camp Butler, Ill., was told by Captain Lamb to take charge of him and see that he got home. After returning home he contracted lung diseases on account of said measles and was in such bad state of health that he could hardly walk, and was unable, therefore, to return to his regiment; that he was first treated from August, 1864, to June, 1865, by Dr. Sharp, living in Jefferson County, Ill., and who died a few years after the above-stated period. He was afterwards treated by Dr. John S. Hillis, of Hillsboro, Ill., who died in 1882. After this he was treated by Dr. Davenport, of Walshville, Ill., who died April 12, 1891.

Affiant also states that he was also treated by Dr. Bennet, residing at Litchfield, Ill., for the period of twenty-two years, and also by Dr. S. H. McLean, residing in Hillsboro, Ill., for twenty years, for said lung disease, and that for the last six years he was treated by his family physician, Dr. Wm. A. Allen, of Donnellson, Ill., for said lung disease.

Affiant also states that he has, since August, 1864, to present date, suffered severely from lung disease, and is still so affected as to be unable to do manual labor.

John Neagle, a resident of Hillsboro, Ill., testified as follows:

That he has known Henry J. Fleming for the period of thirty-two years; that he met the said Fleming at the office of the late Dr. John S. Hillis, who treated him for relapse of some disease, measles or lung troubles; that the said Fleming was at that time hardly able to walk and has ever since been a physical wreck. Affiant also states that during the conversation with said Fleming at that time the said Fleming informed him that said diseases were contracted while in the United States service in above organization, and that he has every reason to believe, from his intercourse during above-stated period, to wit, thirty-two years, more or less, the statement of said Fleming is truthful.

Tabitha Bogard, a resident of Donnellson, Ill., testified as follows:

I have been acquainted with Henry J. Fleming ever since he was a small boy. I knew him when he went into the United States Army in January, A. D. 1864, and I saw him when he was sent back home sick, and I thought he would die. His sickness was effect of measles. This was in August, 1864; and he has never been an able-bodied man since that time; it would have been impossible for him to have returned to the Army before the close of the war in 1865.

John R. Brown, a resident of Donnellson, Ill., testified as follows:

That he has known H. J. Fleming for the period of forty years, and that he knows from his own knowledge that H. J. Fleming was a good, sound, healthy man before entering into the United States service; that he returned home in 1864 with a furlough, suffering from the measles and a very bad cough, and was treated by Dr. Sharp, of Jefferson County, Ill., and returned to the Army. He afterwards came home again in August, 1864, suffering from a very bad attack of measles and fever, and was in such a condition that he was bedfast to 1866, and was not able to return to the Army. Affiant also states that he saw said Fleming from 1864 to present date, with the exception of the year 1872, but was informed nearly every week during the year 1872 of his condition, and that said Fleming is and has been a sufferer during each week and each month since 1864 from said diseases.

Affiant also states in a former affidavit given before William Young that he was not asked or informed of points and facts establishing the innocence of said Fleming of being a deserter, and that he therefore gives from his own will and free from any pregnancy of interest this statement, knowing from his knowledge, knowing that he was at the bedside of said Fleming, that he was not able to return to the Army.

James G. Hansen, a resident of Centralia, Ill., testified as follows:

That he has known Henry J. Fleming from his boyhood; that he knows that the said Henry J. Fleming was a good sound man and free from any disease before entering into the United States Army in January, 1864; that he returned from the Army on a

furlough in a very bad physical condition, coughing and spitting to such a degree that he became a skeleton, and was treated by Dr. Sharp, of Jefferson City, Jefferson County, Ill., and that at the expiration of his furlough he returned to the Army and was sent back again in company of one Joe Addison, of Company G, Ninth Illinois Infantry Volunteers, by the direction and order of Captain Lamb, commanding Camp Butler, Ill.; said Fleming was then in a worse physical condition than before, coughing and spitting, reducing him to helplessness, and that such condition kept him to his bed up to 1866, and that he was not able to return to the Army.

Affiant also states that the arrest of said Fleming, by one John Gill, instigated by one Cash Harvey, was a brutal act of inhumanity, as said Fleming was a helpless man and could not return to the Army, as he is now and was in a very bad condition.

Affiant also states that said Fleming was treated by Dr. Sharp on his second return from the Army, and that said Dr. Sharp was a refugee from the State of Missouri, and whose residence was Lebanon, Mo., returned to said State and died there nearly twenty years ago.

William R. Henson, a resident of Centralia, Ill., testified as follows:

That he has known Henry J. Fleming for the period of forty-five years, and that said Fleming was a good, sound, and healthy man before entering into the United States Army in January, 1864; that he returned from the Army on a furlough in a very bad condition, coughing and spitting to such a degree that he became a skeleton, and was treated by Dr. Sharp, of Jefferson City, Jefferson County, Ill., and that at the expiration of his furlough he returned to the Army and was sent back again in a still worse physical condition than before, accompanied by one Joe Addison, of Company G, Ninth Regiment Illinois Volunteers, by the direction and order of Captain Lamb, at the time commanding Camp Butler, Ill.

Affiant also states that he perused the furlough given to the said Fleming and that after his second return he was a total physical wreck, and this condition kept him to his bed up to 1866.

Affiant also states that he was present and saw one John Gill taking Fleming from his bed, carrying and pushing said Fleming, who was helpless on account of above-stated physical condition, and that said arrest was a brutal act of inhumanity.

JOSIAH PATTERSON v. E. W. CARMACK.

MARCH 31, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. KIRKPATRICK, from the Committee on Elections No. 3, submitted the following

REPORT.

[To accompany House Res. No. 274.]

The Committee on Elections No. 3, to whom was referred the contested election case of Josiah Patterson, contestant, v. E. W. Carmack, contestee, from the Tenth Congressional district of Tennessee, respectfully submit the following report:

The contestant and contestee, both Democrats, were candidates for election to the Fifty-fifth Congress at the election held November 3, 1896, in the Tenth Congressional district of Tennessee. This district is composed of the counties of Shelby, Fayette, Tipton, and Hardeman. E. W. Carmack received the certificate of election and now holds the seat. Patterson claims that he received a majority of the legal votes cast at said election and that he is entitled to the seat.

Both contestant and contestee claimed to be the regular Democratic nominee. While it is not necessary to decide which had the better claim to be such regular nominee, it will throw some light on the controversy to explain how the division occurred.

This split was the sequel to a very spirited contest for the Democratic nomination in 1894, when the contestant and Hon. Casey Young were candidates before the Democratic primary in this district, which had been ordered to select the Democratic candidate for Congress. These two opponents agreed upon everything except the financial question, the present contestant being opposed to the free coinage of silver and his opponent being an advocate thereof.

The returns of this primary in 1894 were canvassed before a returning board instituted for that purpose, and upon count of the votes they declared that contestant was duly nominated by a vote of 5,724 to 3,485 cast in favor of Young.

At the same primary five candidates on either side for members of the Congressional committee were voted for, two from Shelby county and one each from Fayette, Tipton, and Hardeman counties. The same returning board which canvassed the Congressional vote also canvassed the votes cast for these committeemen. From these returns it appeared

that two sound-money candidates were elected from Shelby county and two free-silver men from Tipton and Hardeman, one from each. The returns also showed that John G. Hendon, sound-money candidate for committeeman from Fayette county, had a small majority, but Hon. Casey Young appeared before the board as attorney for J. A. Albright, who had been the free-silver candidate for Congress in Fayette county, and claimed that Albright was really elected.

This dispute was submitted to the returning board, who unanimously decided in favor of Hendon. This was in October, 1894, and nothing more was heard of Albright's contest until July, 1896, when the Congressional committee held a meeting for the purpose of determining how the Democratic candidate to the Fifty-fifth Congress should be selected. Representatives of Albright appeared before the committee at that time and asked to be allowed to contest Hendon's seat. The chairman of the committee overruled this application, holding that it was a matter upon which the action of the returning board was final, and that the committee had no right to review the board's conclusion. Upon an appeal the ruling of the chairman was sustained. Thereupon the two free silver members of the committee withdrew and formed a new committee, consisting of themselves and J. A. Albright from Fayette County, and two Free-Silver Democrats selected by them to represent Shelby County.

The committee thus formed called a convention from the district, which nominated Carmack, the present contestee. The regular Congressional committee, in accordance with previously existing practice, ordered a primary, at which the contestant was the only candidate and was duly nominated.

By the testimony of both Democrats and Republicans it was shown that since the passage in 1889 of the law usually known as the "Dortch law" the Tenth Congressional district has been safely Democratic, when the party was united, and in at least one election previous to 1896 the Republicans did not even go through the form of making a nomination.

After the division in the Democratic party already described, it appears that overtures were made by both sides to the Republicans to secure their indorsement and support. L. W. Dutro, chairman of the Republican Congressional committee and a witness for contestee, testifies that at least 90 per cent of the Republicans of the district favored the indorsement of the contestant, and when their convention met in the latter part of September, 1896, a resolution to this effect was passed with practical unanimity. In the resolution then passed indorsing contestant they gave two reasons for their actions:

1. That contestant's views on the financial question were more nearly in accord with the Republican view than those of the contestee, the financial issue being the dominant one in the approaching election.

2. That the friends of the contestant favored a fair election.

ELECTION LAWS OF TENNESSEE.

Before disposing of the questions of facts involved in this controversy it is desirable to make a short statement of the election laws of Tennessee, so far as they are relevant:

The sheriff, and if he is a candidate, the coroner, shall hold all elections. (M. and V. Code, sec. 1044.)

The county court shall appoint three judges for each voting place, who shall be of different political parties. If the court fail to make the appointment, the sheriff, with the advice of three justices of the peace, or, if none be present, three respectable freeholders, shall appoint said judges. (M. and V. Code, secs. 1047 to 1049.)

If the sheriff or other officer whose duty it is to attend the particular place of voting fail to attend, any justice of the peace present, or if no justice is present, any three freeholders, may perform these duties, or in case of necessity may act as officers or inspectors. (M. and V. Code, sec. 1050.)

When the election is finished, the returning officers and judges shall, *in the presence of such of the electors as may choose to attend*, open the box and read aloud the names of the persons which shall appear in each ballot. (M. and V. Code, sec. 1068.)

These sections of the code were before the Tennessee supreme court in the case of *McCraw v. Harralson* (4 Coldwell, 38), and that court, among other things, held that even if the sheriff was not a candidate for election, but refused to hold it, it would be the duty of the coroner to hold the election. It further held, in the same case, that the object of these various sections was to secure just and competent inspectors, and if this result were accomplished there would be no legal ground for complaint, no matter which of the several different methods were adopted for the selection of judges.

According to the Tennessee laws the officers of the election were six, to wit: The sheriff's deputy, holding the election and usually called the officer; three judges of election, and two clerks. As already stated, the law provides that the three judges shall be selected from different political parties, but there is no provision as to the politics of either the sheriff's deputy or the clerks. There is no provision in the Tennessee law declaring where elections shall be held, or fixing any special place for this purpose.

It appears from the evidence that at the election in November, 1896 judges were selected by the county courts in the three counties of Shelby, Tipton, and Hardeman, and no special complaint is made by either side of the judges thus selected, except in districts Nos. 9 and 10 in Tipton County, which we will hereinafter consider. In Fayette County the county court failed to select the judges. Thereupon the political friends of contestant requested the sheriff of Fayette County, upon whom the duty of selecting the judges then devolved, to call in three justices of the peace and appoint the judges for the entire county, they insisting that this was the spirit and meaning of the law. It seemed that the sheriff first agreed to do this, but afterwards declined, or at least failed so to do; and these judges were not selected, as a matter of fact, until the day of election. We will consider further on the method of their selection on that day, and the character of the judges selected to represent the opposition party. The sheriff of Fayette County was a very earnest supporter of the contestee, as was also every one of his deputies appointed to hold the election in the various civil districts.

RESULT OF THE ELECTION.

For convenience of reference we here insert a table showing the result of the election according to official returns:

Congressional vote.

County.	Patterson.	Carmack.
Shelby.....	5,229	4,831
Hardeman.....	1,541	2,003
Fayette.....	1,386	2,287
Tipton.....	2,330	1,730
Total.....	10,486	10,851
Carmack's majority.....		365

The notice of contestant does not attack the election in all the districts, and in the progress of the case he abandons some of the charges made in the notice, so that when the case was finally up for hearing he only insisted on such of his charges as he had made against eight districts in Fayette County and two in Tipton County. Likewise, though the contestee in his countercharges includes every county in the Congressional district, he abandons some of these countercharges upon the hearing, and the result was that both sides agreed to abide by the official count so far as Shelby and Hardeman was concerned, thus narrowing the contest to Tipton and Fayette.

The following table shows the Congressional vote of Shelby and Hardeman, and also of those voting places in Fayette and Tipton against which contestant brings no charges:

	Patterson.	Carmack.
Shelby County.....	5, 229	4, 831
Hardeman County.....	1, 541	2, 003
Districts 1, 5, 7, 12, 13, 14, and 15, Fayette.....	1, 143	718
Tipton, except districts 9 and 10.....	2, 274	1, 428
Total	10, 187	8, 980
Majority for Patterson.....	1, 207	.....

This table shows the returned vote of the ten precincts in dispute.

Contested districts.

	Patterson.	Carmack.
Fayette, districts 2, 3, 4, 6, 8, 9, 10, and 11	243	1, 569
Tipton, districts 9 and 10	56	302
Total	299	1, 871
Majority for Carmack .....	.....	1, 572

It will be seen that in these ten contested districts the contestee overcame a hostile majority in the rest of the Congressional district of 1,207, and converted it into a majority in the entire Congressional district of 365. The total vote of these ten contested districts is 2,170. It will be found from the evidence that of these, 950 were white and 1,120 colored. A very short calculation will prove that in order to secure the vote returned for him, contestee must have received the entire white vote and three-fourths of the colored vote in these contested districts.

We will now first take up and consider the charges made by contestant, beginning with Fayette County.

Before discussing in detail the evidence referring to the various voting places there are two general matters which can be most conveniently disposed of here.

I.

THE CHARGE OF CONSPIRACY.

In the contestant's notice he charges that the sheriff of Fayette County entered into a conspiracy with certain persons managing contestee's campaign in that county, the purpose of which was to defeat the will of the electors and defraud contestant of their votes. This charge was renewed in all the briefs filed for contestant, and strenu-

ously insisted upon in the oral argument before the committee. One circumstance which it was contended plainly showed the existence of such conspiracy was the character of the judges selected to represent the Republicans and Sound-Money Democrats on the various election boards, and in this connection the attention of the committee was especially called to the following cases, all being contested elections in previous Congresses:

Threet *v.* Clark, Digest Elections, Fifty-first Congress, p. 182; McDuffie *v.* Turpin, *ib.*, 265; Hill *v.* Catchings, *ib.*, 804; Buchanan *v.* Manning, Digest Election Cases, Forty-seventh Congress, 2 Ells., 295-336; Donnelly *v.* Washburn, Digest Election Cases, Forty-sixth Congress, 1 Ells., 48; and the majority report in Thorp *v.* McKinney, decided in the Fifty-fourth Congress, that being the last case on the subject.

The following brief extracts from two of these cases state what they all hold on this question:

Where the course is systematically pursued of appointing on the election boards, to represent the minority or opposition party, persons not indorsed by that party, and as to whose loyalty to the party whose interests they are expected to guard there is a question, or of appointing persons who are *unable to read and write* when there would be no difficulty in finding men well qualified in those respects, this ought of itself to be considered evidence of conspiracy to defraud on the part of the election officers. (Report Threet *v.* Clark, Digest Election Cases, Fifty-first Congress, p. 182.)

It is abundantly proved, and in fact nowhere denied, that it was possible to appoint at each of said precincts and wards competent persons and well-known Republicans to act as judges of election, and the failure to do so is *prima facie evidence of fraud and misconduct* on the part of the electoral boards. (Page 7 of Majority Report in Thorpe *v.* McKinney, Fifty-fourth Congress.)

It was said in the case of English *v.* Peele (Dig. Elect. Cases, Forty-eighth Congress, pp. 167-189):

The evidence tends to show a studied and preconcerted plan on the part of the managers of that city (Indianapolis) to defeat the will of the electors in this case. The credit which is due the returns of the several precinct officers is greatly impaired when it is shown that 54 of the 56 voting places in the city were controlled by partisan officers who were more or less parties to the general fraudulent intent which pervaded the managers. When once the taint of fraud or unreliability is attached to the official count, its value is gone.

According to the foregoing citations, the appointment on the election boards to represent one of the opposing parties of persons not in sympathy with or objectionable to that party, or of persons unable to read and write and without the necessary mental capacity to enable them to serve intelligently, should of itself be regarded as evidence of conspiracy to defraud on the part of the election officials, and that the appointment of such persons was *prima facie evidence of fraud and misconduct* on the part of those charged with the constitution of these boards and the conduct of the election, where it was possible to appoint competent and well-known representatives of the complaining party to act as judges or inspectors of election. This presumption is still more emphatic where, as in this case, these appointments were strongly objected to by the friends of the contestant in the several districts complained of, and where timely application was made for proper representatives and the attention of the appointing parties called to a number of proper and unobjectionable persons for such place on the boards.

The record shows that in every single voting precinct in Fayette County, against whose election returns contestant brings the charge of fraud, all the judges were Carmack supporters, or the Republican representative to whom the law intrusted the duty of protecting the interest

of his party was an ignorant negro unable to read and write and of a very low grade of intelligence.

There is in the record a duly authenticated copy of the election returns from the several districts in Fayette County, and it appears therefrom that upon the official returns from eight of the contested precincts the judge, ostensibly selected to represent the Republicans, makes his mark, being unable to write. The testimony, moreover, abundantly sustains the foregoing statements. The following is a more detailed statement of these facts:

FAYETTE COUNTY.

No. 2 (Eola). Cephus Futrel, an ignorant negro; could not read or write; made his mark on the returns. (Record, p. 412.)

No. 3 (Fayette Corners). Billie Marbury, an ignorant negro; could not read or write; made his mark on the returns. (Record, p. 414.)

No. 4 (Yum Yum). Harry Thompson, professes ability to read a little; signs his name by mark. (P. 416.)

No. 6 (Braden). Austin Rogers, an ignorant negro; could not read or write; makes his mark. (P. 419.)

No. 8 (Oakland). Louis Wilson, ignorant negro; could not read or write; makes his mark. (P. 426.)

No. 10 (Piperton). William Wright, an ignorant negro; could not read or write; makes his mark. (P. 432.)

No. 11 (Macon). Abe Haslett, an ignorant negro; could not read or write; makes his mark; an idiot. (P. 434.)

No. 9. Mack Harris, an ignorant negro; could not read or write; makes his mark. (P. 429.) Mack Harris voted the Democratic ticket. (Redd's Dep., p. 504.)

No. 10 (Rossville). G. W. Taylor. Taylor, it seems, could read and write, but in this election voted for Carmack, according to his own statement.

No. 6 (Galloway). All the judges of election were white Democrats.

There is no pretense that it was not possible to have selected persons who could read and write, the proof showing that there were many such persons in all these districts who were Republicans. Therefore, according to the rule laid down in the cases above cited, this one fact is a very strong circumstance, sufficient in itself, unless explained, to prove a conspiracy to defraud, and even making out, according to the holding in *Thorpe v. McKenney*, a prima facie case of fraud and misconduct on the part of the officials charged with the conduct of the election. We shall hereinafter see whether this circumstance is explained, or this presumption of fraud rebutted by proof, when we come to consider the various districts separately.

We have certainly no desire to modify the holding of the election committees of the different Congresses upon this subject. The cases cited will show that upon this question both Democrats and Republicans were united, and unless this fact, shown by the official returns themselves, of the selection of ignorant judges to represent the opposition party is sufficiently explained, it will not only cast a suspicion of fraud upon the returns from all these districts, but be sufficient to set them aside altogether.

II.

THE COLORED VOTE.

As already shown, there was a heavy colored vote in all of the contested districts, the proof disclosing the fact that the colored voters had a large majority in every one of these districts, except No. 2, in Fayette County.

It is insisted by contestant's counsel that there is a very strong improbability that the colored voters of these contested districts could

have cast the votes for the contestee which the returns show. In this connection attention is called to the fact that in the districts where the judges were satisfactory to contestant's friends and the Republicans, it is conceded that the colored vote was cast for contestant almost unanimously. This fact can be most clearly brought out by reference to the following tables:

The voting places in Fayette County number 17, there being two voting places in civil districts Nos. 6 and 10, and one in each of the other 13 civil districts.

These voting places can be divided into three classes:

1. Those in which no charges have been made against the fairness of the election by either side;

2. Those in which the Republicans and sound money Democrats were so much dissatisfied with the judges selected that they declined to vote at all; and,

3. Those in which they did vote, but in which the contestant charges that the votes cast for him were counted for contestee.

In each of these tables we present four columns of figures, the first two showing the vote for contestant and contestee, respectively, and the next two showing the colored and white vote cast at the poll. It is not deemed necessary to tabulate votes returned for other candidates.

FIRST TABLE.

	Patterson.	Carmack.	White.	Colored.
District No. 1.....	280	104	155	237
District No. 5.....	256	82	100	241
District No. 7.....	193	75	85	186
District No. 12.....	124	191	148	179
District No. 14.....	162	99	121	150
District No. 15.....	127	78	80	128
Total	1, 142	629	689	1, 121

SECOND TABLE.

District No. 9.....	0	77	53	24
District No. 13.....	1	89	80	11
Total	1	166	133	35

The proof shows that in the district No. 9, 225, and in the district No. 13 from 275 to 300 colored voters came out to the polls, but refrained from voting under the advice of their leaders.

THIRD TABLE.

	Patterson.	Carmack.	White.	Colored.
District No. 2.....	24	172	134	71
District No. 3.....	84	130	102	120
District No. 4.....	10	305	74	241
District No. 6 (Braden).....	4	65	65	4
District No. 6 (Galloway).....	0	62	58	4
District No. 8.....	5	241	166	80
District No. 10 (Rossville).....	35	212	98	142
District No. 10 (Piperton).....	37	109	47	99
District No. 11.....	44	196	86	156
Total	243	1, 492	830	917

If the colored voters in the districts embraced in this last table had refrained from voting altogether, and the contestee had received all the white votes cast at the polls, he would still have had only 830 votes instead of 1,492, and contestant would have had a clear majority in the entire Congressional district.

According to the proof a very large majority of the colored people were Republicans, whose habit it was to vote the straight Republican ticket. Chairman Dutro estimates that 95 per cent of the colored people were Republicans, but that some few of these could be influenced by their white Democratic friends, though in his opinion at least 90 per cent could not be thus influenced, but voted the straight Republican ticket in national elections.

It can not be denied that the fact shown by above tables, that so large a majority of the colored voters in the contested districts appear to have voted, not only for the contestee, but for all the Democratic candidates, is a very suspicious one, in the light of the proof in this case. Unless some reason for this is shown, it will certainly add great strength to the presumption of fraud arising from the selection of ignorant judges, and force us to the conclusion that the vote returned from these contested districts did not represent the actual vote cast by the voters.

The attention of many of the witnesses for the contestee was called to the fact that the colored voters in districts where the judges were satisfactory to the Republicans and Sound-Money men seem to have voted almost unanimously for contestant and the straight Republican ticket, and in many of the contested districts seem to have voted with almost equal unanimity, according to the returns, for the contestee and the straight Democratic ticket, and they were asked to explain this difference if they could. Many of these witnesses declined to make any explanation at all, and explanations which were attempted by others are entirely unsatisfactory to the minds of this committee. According to the proof of even the witnesses for contestee, there seems to be no special difference in the political preferences of the colored voters in the various districts of Fayette County, and yet the returned vote shows the most striking differences in the votes of districts, sometimes immediately adjoining. For illustration, the colored vote of the adjoining districts, Nos. 4 and 5, of Fayette County, was precisely the same, 241 in each. In No. 5 they all seem to have been cast for contestant and the entire Republican ticket. In No. 4 only a very few were cast for McKinley and Tillman, probably none for contestant, and certainly none for the legislative candidates on the Republican ticket, if the official returns from district No. 4 are accepted.

We thus see that there is not only a strong presumption against the fairness and truth of these official returns from the contested districts, arising from the character of the judges appointed to represent and protect the Republicans, but there is also, to say the least, a strong suspicion against these returns, growing out of the fact that the colored voters, who are nearly all Republicans, according to the proof, must have, if these returns are true, abandoned their political convictions and voted for the opposite party.

We now take up the different districts and consider each separately.

DISTRICT NO. 2, EOLA.

In this district Howard Huskins, a colored man who could read and write, was the Republican leader. He had received directions not to allow the Republicans to vote until the afternoon. Before any of them

had voted, George B. Hendon and R. M. Fowler, two white men sent out from Summerville to assist in the attempt to secure a fair election, arrived at the polling place, and after consultation the following method of voting was agreed upon: Huskins stood in front of the polling place with the Republican tickets open in his hand. Hendon was between him and the polling place, as were also Fowler and W. J. Smith, a white man who lived in that district. The voters came up one by one, and as each approached he was handed an open ticket, which he took without folding to the officer holding the election, only a few feet distant, and handed it in. Huskins, Hendon, Fowler, and Smith were so stationed that each could see the ticket from the time the voter received it until he deposited it in the hands of the election officer. Hendon had a blank memorandum book in his hand, and as each elector voted he wrote his name down in that book.

Huskins testifies that he gave out in this way 61 Republican tickets, with contestant's name on each one of them, as a candidate for Congressman, and that he saw every one of them handed to the officer holding the election.

Hendon testifies to the same effect and exhibits the memorandum book in which he took down the names of the 61 voters.

Fowler and Smith testify to seeing between 40 and 50 of these tickets voted, each having the name of the contestant on them as a candidate for Congress. Neither of these witnesses was present all of the time.

In addition to these 61 votes, Hendon testifies that a white man by the name of E. J. Croft voted a Democratic ticket with the name of contestant on it as a candidate for Congress. This would make 62 votes received by contestant according to his proof in this precinct. Hendon also testifies that after the closing of the polls he requested the privilege of being present and witnessing the count. This is a right expressly given by the Tennessee law to any elector who chooses to attend, but the officer holding the election denied this privilege to Hendon.

Contestee's proof consists principally of the testimony of the officers of election, who all swore to the fairness of the election and the honesty of the count. The sheriff's deputy claimed that only 35 or 40 colored men voted, but his attention was called, on cross-examination, to a list of these colored voters, exhibited with the deposition of C. W. Gentry, a witness for the contestant, and showing that there were 71 colored men voting at this precinct, and he was unable to dispute the accuracy of this list; that is, he could not point out any names upon it who in fact were not colored, but white men. The list of names taken down by Hendon, and exhibited with his deposition, is shown in the record, and contestee makes only these attacks on its accuracy:

(1) Because it contains the names of two voters, John Thornton and Garrison Lewis, who did not vote at all.

According to the official list, the names of these persons were John Alexander and R. S. Lewis; but we do not regard this mistake as very material.

(2) Because the name of Tom Green appears on Hendon's list, and one Tom Green was introduced and swore that he voted for contestee.

However, upon the official list there are two Tom Greens, both colored, being Nos. 163 and 198.

We think the evidence introduced for contestee is not sufficient to set aside the positive testimony of witnesses for contestant, and we find that instead of receiving only 24 votes in this district contestant received 62, and contestee could not have received more than 134, the number conceded to him by contestant in his brief.

DISTRICT NO. 3, FAYETTE CORNER.

The proof in this district for contestant is not as full and satisfactory to the mind of the committee as in some other districts, so far as the number of votes which were cast for contestant is concerned. There are circumstances, however, which show that the official return must have been fraudulent, and was known so to be by the persons in charge of the election.

In this district the political friends of contestant endeavored to secure the appointment of at least one competent judge who could read and write, and thus protect the interests of the Republicans and Sound-Money Democrats. They claimed that the sheriff's deputy agreed to grant this request, but as a matter of fact he failed to comply therewith. The friends of contestant also made a strong and persistent effort to witness the counting of the vote, but this privilege was denied them, and they were advised that rather than let them witness the count the vote should not be counted at all. Such a refusal to allow electors this privilege of witnessing the count has been held to be sufficient ground for excluding the official return altogether. (Payne on Elections, sec. 501, p. 423; *Delano v. Morgan*, 2 Bart., 168.)

This circumstance, in connection with the matters hereinbefore discussed, in our opinion, constitutes sufficient ground to reject this poll altogether. When the official return is thus rejected, for fraud or other reason, it devolves upon each party to show by proof the actual vote he did receive.

While the evidence satisfies us that in point of fact more votes were cast for contestant than were returned for him and that the return for the contestee was erroneous and larger than he was entitled to, there is not sufficient proof of the actual number cast for each of the candidates, and therefore, although the contestant claimed a majority of actual votes of 26, we are unable so to find or to find any definite number for each of the contestants.

Under the well-settled principles applicable to such a situation the only action the committee feel justified in recommending is the rejection of the poll.

DISTRICT NO. 4, YUM YUM.

There is a larger amount of evidence relating to this district than any other, and contestant claims that there were votes enough here cast for him and fraudulently counted for contestee to have changed the result of the election in the entire Congressional district.

Attention is called to the fact that this district, No. 4, and No. 5, in Fayette County, lying contiguous to each other, represented the heaviest colored and Republican majorities. The colored vote in these two adjoining districts is of the same political character, being almost unanimously Republican, and, indeed, no cause is shown in the evidence why one should be so and the other not. In No. 5, the fairness of the elections in which was not questioned, Bryan and Carmack received 83 and 82 votes, respectively, and McKinley and Patterson each 256 votes.

By the official returns contestant received only 10 votes, while his opponent is credited with 305. The returns further appear to show that the McKinley electors received 28 votes; that G. N. Tillman, Republican candidate for governor, received 28, and that J. O. Randall, Republican candidate for senator, and J. T. Leake, Republican candidate for general assembly, received no vote at all. The testimony of

36 witnesses, 33 colored and 3 white, all of whom could read and write, is introduced by contestant. All of these witnesses swear positively that they voted for the contestant, for the McKinley electors, for Tillman, Randall, and Leake; moreover, William Thompson, the colored judge in this district, swore that he voted the same ticket, while M. L. Jackson, one of the white judges, also swore that he saw Thompson vote this ticket. This would make at least 37 votes for all the above-named candidates. None of these witnesses are impeached, and the testimony of none of them is materially shaken by the cross-examination.

The proof for contestee consists of the testimony of the persons holding the election and one J. H. Garnett. Garnett does not profess to know anything about the fairness and honesty of the election, and when asked the question declined to say whether he believed it was fair or not. The persons holding the election swear that it was fair and honest, so far as they knew, but one of them, William Reeves, when asked his *opinion* as to the fairness of the election, first stated that he believed it was fair, but afterwards hesitated about this, and finally declined to say what his belief was. In this district a special effort was made by contestant's friends to secure the selection of some persons among the judges whom they could trust. They did not insist so much that this person should be a supporter of contestant, but they did insist that he should be an honest and fair man, and they were finally promised by the officer that one of the justices of the peace of the district, J. B. Alexander, should be selected as a judge. This was satisfactory to them, but the promise was broken, and Alexander was not appointed.

As shown by the evidence, there were 74 white persons and 241 colored who voted in this district. The proof is that the overwhelming majority of these colored men were Republicans and supporters of contestant, and all the proofs taken together leave no doubt in our minds that the return from this district was a false return and should be altogether disregarded. It is difficult, if not impossible, to tell from the evidence the exact number of votes actually received by contestant and contestee. In addition to the 37 Republicans above referred to who testified that they voted for contestant, there was 1 white Democrat who swore that he voted for contestant, making 38 votes certainly received by him. Moreover, one of the witnesses for contestant, Ed. Maris, makes out a list of 61 persons whom he heard say at the time they received their tickets that they expected to vote for contestant and the straight Republican ticket; but about 25 persons on this list, out of these 61, were included in the 36 above referred to as having testified that they voted for contestant. In addition to this all the witnesses for contestant testify that the colored voters in district No. 4, so far as they knew, were almost unanimously Republicans and in favor of contestant for Congress. On the other hand, J. H. Garnett, a witness for the contestee, testifies that he was present at the polls nearly all day working in the interest of contestee, but on cross-examination names only 5 colored persons who voted for contestee, so far as he knew. Garnett is the man upon whose influence with the colored voters contestee's counsel strongly relied, and if he could only name 5 voters whom he was able to influence, the strong probabilities are that very few other colored voters cast their ballots for contestee.

It is extremely probable, under all the evidence in the case, that the contestant actually received about the number of votes claimed for him in this district, to wit, 235, but the proof is not definite enough and does not sufficiently establish the fact. We are inclined to confine

our finding to the 38 votes established by the testimony of the voters themselves who were called as witnesses as to how they voted.

On the other hand the same kind of evidence discloses only 11 votes actually cast for contestee, although it is very likely that the great majority of the white electors voted for him.

Under the condition of the proofs, the poll being rejected, we fail to find, from the evidence *aliunde*, more than 38 votes certainly cast for Patterson and 11 for Carmack, although there were probably more cast for each, as already stated. In the absence of definite and sufficient proof of such additional votes, however, we can only count those above enumerated.

DISTRICT NO. 6, BRADEN.

There are two voting places in civil district No. 6—Braden and Galloway. Three justices of the peace live in the district—Griffin and Jackson, supporters of contestant, and Pearson, a supporter of contestee. On the night preceding the election Griffin and Jackson went to Pearson's house and suggested that they then agree upon the judges to be appointed at each precinct. Pearson refused to do this, giving as a reason that he was not going to have anything to do with the selection of the judges. If this excuse was given in good faith he must afterwards have changed his mind, as it appears from the testimony of the witnesses for the contestee themselves that on the day of the election Pearson did recommend three persons at each polling place for appointment as judges.

After finding that no agreement could be made with regard to the selection of the judges, the supporters of contestant made an arrangement among themselves, and appointed three men to be present at each polling place and take down the names of the persons desiring to vote for contestant.

The three persons selected for Braden went to that polling place on the morning of the election, but were not able to carry out the arrangement with regard to taking down the names of the persons voting for contestant, because the election officers, or some one for them, had appointed, without warrant of law, one O. Kelly, to keep all persons from the polls except the voters while voting. However, it seems that a fairly good watch was kept of the electors voting for contestant, and it appears from the proof that contestant received at least 17 votes, of which 14 were white and three colored. This is proven mainly by the voters themselves, 14 of whom testified to this effect. In addition to their own votes they prove 3 more for contestant, giving the names, making a total of 17, as above stated. The official returns allowed the contestant only 4 votes. At the close of the polls some supporters of contestant asked that they be allowed to witness the count, but the officer in charge of the election refused this request, adding to his refusal the significant inquiry whether they took him to be a fool.

Contestee takes the testimony of quite a number of witnesses, including some of the judges and clerks, but it seems that none of them could tell much about the election, except that they did not personally know of any fraud. However, none of these witnesses counted the ballots, as they testified that the officer counted them and then threw them on the floor. They say they might have counted them if they had desired so to do, but, as a matter of fact, they did not count them. The testimony of the officer was not taken.

Counsel for contestee, upon the hearing of this case, relieved the committee of the necessity of deciding upon the question of fraud at this

precinct, as they then conceded that the contention of the contestant's counsel was true, and admitted that contestant was entitled to at least 17 votes, the number claimed by him in his brief. It necessarily follows from this admission that the official return was false and can not be relied upon for any purpose. (Payne on Elections, pp. 500 and 501.)

Contestee did not offer any testimony for the specific purpose of determining how many votes he received at this precinct. It is, however, incidentally disclosed by the testimony of his witnesses that they voted for contestee, and this testimony is not controverted. The vote thus shown as cast for contestee is less than the number conceded by the contestant in his brief and upon the argument to have been actually cast. Under a strict application of the precedents already cited, the votes in this district should be counted for contestant, 17, and only the number proven for the contestee. However, in the summary made by the contestant in his argument of the votes actually cast, contestee is admitted to have had 52 votes at this precinct, and your committee feel justified in accepting this admission as sufficient proof of this number for contestee.

DISTRICT NO. 6, GALLOWAY.

In district No. 6, in which Galloway is situated, there were, as already stated, three justices of the peace—Griffin and Jackson, Patterson men, and Pearson, a Carmack supporter. On the night before the election the two Patterson justices attempted to arrive at an understanding with Pearson as to the judges to be recommended at each precinct in this district. Pearson declined to agree to any nominations and announced his purpose to have nothing to do with the selection of the judges. This was evidently a subterfuge, as on the next day he cooperated with John Braden, the sheriff's officer authorized to hold the election, in appointing three Democrats as the election officers.

On the morning of the election three supporters of contestant, at about the hour for the opening of the polls, which under the law of Tennessee was 9 a. m., appeared with pencil and paper with the expressed purpose of taking a list of those voting for contestant.

Although John Braden, the officer, was present, the polls were not opened and the election was delayed until after 11 o'clock, upon the pretended ground that the officer could not secure a Republican judge that was satisfactory. This officer had openly declared, a few days before the election, that he was going to count Patterson out, and that such had been the custom.

In this connection we might remark the extraordinary frankness and audacity which in so many cases characterize the acts and declarations of the officials charged with the conduct of the elections in Fayette County, which appears to have been the principal theater of these frauds. It seems to be virtually admitted that the suppression of the colored vote was a time-honored custom in this country, and that the impunity with which it was done made any attempt at concealment unnecessary. This feature abundantly crops out in the evidence.

With this purpose evidently in mind, Braden, who was an active and zealous Carmack partisan, delayed the election upward of two hours ostensibly in selecting a Republican judge.

In the meantime about 200 Republicans were assembled on the ground waiting to vote. Notwithstanding many of them were competent and willing to act, Braden sent off some distance for one Ed Brown, an illiterate colored man, and tried to induce him to serve.

It appears, however, that Brown was not only unable to read and write, but was not a Republican at all. At any rate, he was objectionable to the Patterson supporters. Braden was finally compelled to abandon his purpose to appoint Brown, and no further pretense was made of selecting a Republican. Three white Democrats were appointed, 'Squire Pearson, with two others, having signed the written appointment. After some further dispute as to the regularity of these appointments, Braden announced publicly that he would hold no election, and immediately left the room in which he had contemplated opening the polls. The judges whom he had selected also left the room and dispersed.

Immediately after this public announcement, and before Braden had left, 'Squire J. E. Griffin announced publicly that if Braden did not hold an election he would.

This was his right, under the laws of Tennessee, as we understand them, he being a justice present and vested with the power of holding the election if the officer appointed to this duty failed to attend, or, having come, refused to perform that duty.

Griffin, in accordance with the law, called in three freeholders, appointed judges and clerks, swore them in, and then these persons legally opened and held the election, Braden and his appointees having refused to act and having left the polls, as already stated.

After the poll was thus opened and a number of voters had registered their votes Braden returned and opened another poll, selecting two of the judges who had been appointed in the first instance and one other person, and also proceeded to hold an election.

An effort was made to discredit the testimony of Griffin and one Wilder, who had distinctly testified to the declaration of Braden that he would hold no election, by calling one Beatty and others. All that Beatty was able to say was that he did not hear any such declaration, but he admitted that he was with Braden only part of the time and at other times was walking up and down the street. The other witnesses called by contestee were still more inconclusive, testifying only to their opinion that Braden intended to hold an election, and do not appear to have been present at the time the statement was said to have been made.

There was some dispute as to which polling place was first opened, but we are clearly satisfied from the weight of the evidence that the Griffin box was first opened.

Griffin swears positively that he stayed at the place where his election was being held until after the voting began and then went up the street, passing the place where the Braden election was held, and that when he passed no one was there and no election was then being held.

It further appears from the testimony that the persons holding the Griffin election actually went into the room where Braden subsequently held his election and took out the table which they used at their polling place. No one was in the room when the table was so removed.

We are fully satisfied from the evidence that Braden had refused to hold the election, and, from all his conduct and the attending circumstances, that he expected thereby to defeat the holding of any election after being checked in his plans to commit a fraud on the clear Republican majority in this precinct.

We also find from the great preponderance of the evidence that the Griffin poll was opened and underway before Braden changed his mind and concluded to open his polling place.

It will be noticed that Braden himself was not called as a witness to contradict the positive testimony of Griffin and Wilder as to his refusal

to hold an election, nor was his brother, who was also stated to have been present and participating in the dispute, nor was any other supporter of his who claimed to have been present at the time testified to by the contestant's witnesses.

The committee is of the opinion that under the law of Tennessee after Braden's long delay and final refusal to hold an election and the leaving of the polling place by himself and his judges, Griffin was immediately vested with the power to hold an election and select election officers, and after he had lawfully assumed that duty and the officers so selected were executing their functions in conducting an election, all authority originally given to Braden was gone.

As further evidence of the intention of Braden not to hold a fair election it appears that during the long delay in which he was pretending to be looking for a Republican judge, there was a conference had *in his presence* by Dr. Battle, a very influential supporter of contestee, and Oscar Wilder, a friend of contestant. During this conference Battle proposed to Wilder that they should agree to have some reliable friend of contestant appointed as a judge, with the understanding that all the votes for contestant should be honestly counted, if it was understood that the other candidates on the Republican ticket should be counted out. This was not agreed to by Wilder, but that such a proposition was made is proven by both Wilder and Dr. Battle, a witness for contestee. Another circumstance showing a purpose to disregard the law is that at the election held by Braden the voters were not required to exhibit their poll-tax receipts. This was not only a violation of the Tennessee statute, but it subjected the judges allowing persons to vote without exhibiting the statutory proof of payment of a poll tax to indictment and penalty.

That the voters were not required to exhibit these receipts is proven by one of the judges, Beatty, and also by Dr. Battle, as well as contestant's witnesses.

In the contested election case of McDuffie v. Davidson (Fiftieth Congress) the same conditions were presented. At Hollow Square, one of the disputed precincts in that case, the inspectors who had been previously appointed failed to open the polls, and the qualified voters, after the hour appointed by law for the opening of the polls, appointed the inspectors, who proceeded to hold an election. After the polls had been so opened, the inspectors first appointed opened the polls and received 45 ballots for the contestant in that case. These were returned and counted by the returning board of the county. Congress counted the ballots cast at the other polls, and rejected the 45 as invalid. It is noticeable that both the majority and minority reports in the case cited concurred in this conclusion. (Mobley, pp. 596, 615.)

We think that the election held by Braden was in violation of the law, and that none of the votes at that polling place should be counted. We do not believe that an election thus held with the avowed purpose of committing a fraud and in open violation of the law should be sustained, and accordingly recommend that the vote be altogether disregarded.

We further find that the election at the other polling place, held by Griffin's appointees, was absolutely regular and entirely legal, and the vote returned from this polling place should be counted, which would make the return from Galloway 247 votes for contestant and none for contestee.

DISTRICT NO. 8, OAKLAND.

The supporters of contestant in this district seemed especially anxious to secure competent judges to protect their interests. Both the Sound-Money Democrats and the Republicans sent delegations up to Somerville to see the sheriff on this subject, and they obtained his solemn promise that one T. M. Ross, a white man, and Isaac J. Persons, a colored man, should be among the judges at this precinct.

It seems that the colored voters in this district had supported the sheriff when he was a candidate for reelection in August, 1896, and they used this as an argument with him to be allowed the privilege of selecting the one colored person usually appointed on the electoral board. He readily assured them that this privilege would be granted and the person recommended by them appointed.

Isaac J. Persons, whose appointment they requested, was a representative colored Republican, who could read and write.

However, they did not trust altogether to this promise. One of the justices of the peace in that district (R. E. Freear) was a supporter of contestant. Early on the morning of the election, and about an hour before the opening of the polls, he had an interview with the sheriff's deputy at that precinct and notified him that he was on hand and claimed the privilege given him by the law to advise with the sheriff concerning the appointment of the judges of election. Thereupon, this officer informed him that these judges had already been selected, and that he intended that they should serve, though he did not think they had been appointed as they should have been. He gave as an excuse for this that the supporters of contestee desired the election held by those persons, and he was going to let them have their will about it.

Both justices of the peace were on the ground before the polls were opened, but neither of them was advised with relative to the appointment of judges, who were selected by three ardent supporters of contestee, one of them being a member of the Democratic executive committee for that district. Neither Ross nor Persons was selected as judge, but the judges named were Kyle and Stafford, two white supporters of contestee, and Louis Wilson, an ignorant negro, who could not read or write.

It was claimed by B. J. Flippin, a witness for contestee, and one of the persons naming these judges, that their first idea was to appoint Isaac J. Persons as the colored judge, and he even swears that they looked for Persons but could not find him. Persons testifies that he had heard that he probably would be selected as the colored judge, and came to the polling place very early that morning, probably an hour and a half before the opening of the polls; that he remained near the polls from that time until after they were opened, and at the very time they claimed to have looked for him he was sitting on a wood pile immediately in front of the room in which the election was held and opposite the window at which the electors voted. It seems that Flippin knew this, because when he was asked where Persons was he says himself that he was sitting on a wood pile near the store, but that they looked in the store. It is very clear that they made no search for Persons and had no desire to find him, and this pretended purpose to appoint Persons was a mere subterfuge, if not absolutely false.

There is another circumstance that strongly aroused the suspicion of the supporters of contestant with regard to the fairness of the election in this precinct. It appears from their testimony that friends of contestant claimed that he had about 35 white supporters in this district,

and the friends of contestee conceded that he had about 20. There was a very heavy negro vote in this district, the overwhelming majority of whom also claimed to be supporters of contestant. However, certain ardent supporters of contestee, whose names are given, proposed to wager any odds, even as high as 50 to 1, that contestant would not receive more than 20 votes on the day of the election in that precinct. Contestant's friends construed this to mean that the votes cast for him would be counted for contestee, as in no other way could his vote be reduced to that number.

Again, John B. Reed, a very earnest supporter of contestee and one of the persons who selected the judges on the morning of the election, openly announced, according to the testimony of J. P. Mathews, a merchant at Oakland, that contestant would not be allowed more than 20 votes on the day of the election, and he justified this by saying that contestant's friends claimed about 35 white supporters, but he had counted them up and there were really no more than 20 of them, and that "he didn't think the darn negro vote ought to be counted."

All these matters so excited the apprehension of the supporters of contestant, both white and colored, that they were uncertain what to do, and sent to Somerville, 10 miles away, for legal advice. They were advised to protest the legality of the election held by Griffin, and open another ballot box, which they did. This second election was held by a regular deputy sheriff and three judges selected from different political parties, as the law required, all of whom could read and write, and two clerks. The testimony shows that this election was held in strict conformity to all legal requirements as to the qualification of the voters, and returns thereof were duly made. At this polling place contestant received 154 votes, which, however, were not counted by the sheriff.

We have had some difficulty in deciding upon a proper recommendation to be made as to the counting of the votes at these two boxes in this contest. We are entirely satisfied from the proof that the persons in charge of the election at the box called by the witnesses "Box No. 1" intended to perpetrate a fraud. This is shown to our mind by the following circumstances.

(1) By the refusal to appoint Ross and Persons as judges, according to the sheriff's promise.

(2) By the plain violation of the law in refusing to R. E. Freer, a justice of the peace, his legal right to advise with the sheriff's deputy concerning the appointment of the judges.

(3) By the excessive confidence shown by supporters of contestee in offering to bet at such overwhelming odds as would demonstrate that they were taking no risk at all.

(4) By the testimony of the six white men, Freer, Mathews, Smith, Cartwright, Alexander, and Wilson. All these positively swear that they voted for contestant, who was only allowed 5 votes.

We consider that all these circumstances are amply sufficient to make absolute the presumption already existing of a conspiracy to defraud contestant and the Republican candidates arising from the character of the judge selected to represent the Republicans of this district.

Another circumstance which strengthens us in this conclusion is that, notwithstanding this severe attack made upon the legality and fairness of the election held in box No. 1 by the witnesses for the contestant, contestee does not take the testimony of the sheriff's deputy, or either one of the clerks, and of only one judge out of three. We do not think

the testimony of this witness is sufficient to repel the presumption of fraud arising from the circumstances above set out, and if the strict legal rule should be applied to this polling place it would result in the entire rejection of the return from this box. This disposition would certainly be in line with the precedents made by Congress in dealing with cases of this nature. As to the box designated by some of the witnesses as No. 2, while the proper solution is not free from difficulty, we can not come to any other conclusion than that it ought to be counted.

It is true that there are cases in some of the States which hold that the purpose to commit a fraud on the part of the election officers in charge, however clearly evidenced, is not of itself sufficient to authorize electors who fear to cast their votes at such polling place, however reasonable that apprehension may be, to set up and hold another election.

No case, however, was cited from Tennessee, and in view of the very liberal provisions of the statutes of that State and the still more liberal interpretation placed upon those statutes by its courts in construing and overlooking irregularities in the interest of a fair and free expression of the popular will, there is room for doubt as to whether this poll might not be sustained.

But in judging "of the elections, returns, and qualifications of its own members" under the grant of the Constitution, this House exercises judicial power, and is a court of competent and exclusive jurisdiction. In passing upon these returns and elections, even if no Federal statute is in existence regulating the elections of its members, it interprets and construes the State election laws which for the purposes of such election are to be regarded as having the quality of Federal legislation, and the opinions of State judges are only to be adopted so far as they commend themselves by the intrinsic force of their reasoning; and where such decisions are in conflict with its own determinations, the precedents established by Congress are the expression of the law, and must control that court with the same force and effect that its own prior deliberate rulings guide and control any other court.

It has been decided in numerous cases by Congress that it is its privilege and its duty in the exercise of its constitutional right to pass upon the election and qualifications of its own Members, to award the seat in Congress to the candidate who is ascertained to be the choice of the majority of the legal voters of his district even though slight technicalities are required, in doing so, to be overlooked and disregarded. This power may be regarded as implied in the constitutional grant, and to that extent and thereby State legislation, so far as it relates to and regulates the elections of Members of Congress, supplemented and modified by that Constitution as the supreme law of the land.

This was clearly the view taken by the Elections Committee, and sustained by the House of Representatives in the case of *McDuffie v. Turpin*, reported by Mobley, page 290. At Uniontown, in Perry County, one of the precincts there involved, was presented the identical question raised by this Oakland election. The Republicans would not trust their ballots in the regular election box for fear they would not be counted, but went off and organized a second election, and deposited their ballots there. These votes were counted in that contest, the majority report of the committee justifying this action by the following language:

In extraordinary cases, and where it appears that in no other way can the actual will of the voters be ascertained, a resort to methods not technically in accordance with statutory direction may be justifiable; and upon proof that a full, fair, and

honest election has been held by those only who are qualified voters, under these circumstances the returns from such an election, when duly proved, may be considered and counted.

None of the guards provided by the statute to secure honest result should be neglected, but when statutory provisions designed to protect qualified voters in the exercise of legal rights are made use of with deliberate purpose to suppress the will of the majority such action will be regarded as fraudulent. (Digest Contested Elections, Forty-eighth, Forty-ninth, and Fiftieth Congresses (Mobley), p. 290.)

As already stated, an adherence to strict technical rules would seem to necessitate the rejection of the returns received from this precinct. However, as this would involve for the contestee a greater loss than would follow the counting of both, and as the contestant in his brief expresses a willingness that both should be counted, while recommending that the precedent set by the case of McDuffie against Turpin be followed and that the vote cast in the box held by the supporters of contestant be counted under the authority of that case, we also recommend that the vote cast in box No. 1 be counted, especially as contestant does not insist that it should be rejected.

We are entirely satisfied that the recommendations made in the case of McDuffie *v.* Turpin as to a strict performance of all legal requirements were followed in this case, and that all persons who voted for contestant at box No. 2 were legal and qualified voters. Counting both returns, the vote from this district would be: For contestant, 159; for contestee, 241.

DISTRICT NO. 9, CANADAVILLE.

In this district the supporters of contestant declined to vote, their reason being the refusal of the sheriff's deputy to appoint the judges recommended by the justices of the peace as judges of the election and the selection of a colored man who could neither read nor write, and who was a Democrat, as shown by his vote cast at this election.

While the action of the sheriff's officer and contestee's friends was in harmony with the general purpose of the conspiracy and justified the distrust of the Republican voters, the evidence fails to establish that the vote returned was not actually cast for contestee, and is not sufficient to require rejection of the poll.

The Republicans, 225 in number, who declined to vote for the reasons stated should have tendered their votes, and, having failed to do so, of course can not be counted.

DISTRICT NO. 10, PIPERTON AND ROSSVILLE.

The testimony taken with regard to the election at both these precincts was brief and can be considered together.

Contestant proves by one J. R. Bradley, who was the Republican leader in that district, that he was present on the day of the election at Piperton and voted in that precinct. Before the day of election he had made a canvass of the entire district and taken down the names of all the voters who wished to vote the Republican ticket and for contestant for Congress. On the day of the election he stationed himself near the window where the election was held and handed the straight Republican ticket to 95 persons, every one of whom he saw vote. The name of the contestant was on each one of these tickets, and when each voter cast his ballot his name was checked on the list which Bradley had already prepared. The next day he wrote down the names of each one of these persons, and this list is exhibited with his deposition.

The same facts are proven by another witness, Riley Baldwin, who stood next to Bradley on the day of the election and saw him give

Republican tickets to these 95 persons, and also watched the voter until he handed this ballot to the officer holding the election.

As to the election at Rossville, Henry McFarland, the vice-chairman of the Republican committee for that district, testifies that he stood near the voting place at Rossville, on the day of the election, and in full sight thereof, and that he gave the Republican ticket, with the name of contestant as candidate for Congress thereon, to 81 voters, and saw each one of these hand their tickets to the officer holding the election; also that he made a list thereof at the time, and this list is exhibited with his deposition.

The person selected to represent the Republicans on the election board at Piperton was William Wright, an ignorant negro, who could not read or write. At Rossville all the judges were Carmack supporters, Taylor, the judge selected to represent the Republicans, voting for Carmack, according to his own statement.

The proof introduced in behalf of the contestee as to both these precincts consists almost altogether of the testimony of some of the officers of the election. They all deny that there was any fraud in the election, and insist that it was perfectly fair and honest. However, they do not introduce as witnesses for contestee any of the persons whose names are on the lists exhibited by Bradley and McFarland, although the depositions of these witnesses had been given weeks before contestee's proof was taken, and his counsel, of course, had full knowledge of the fact that these lists were made out and had abundant opportunity of testing their accuracy by sending for the witnesses and finding out whether or not they voted as Bradley and McFarland say they voted. If the official returns are true, there must have been on Bradley's list the names of 58 voters who did not vote for the Republican ticket or for contestant, as Bradley swore they did. Likewise, on McFarland's list, there must have been, if the official returns are true, the names of 46 voters who did not vote as McFarland swears he saw them vote.

Out of these 104 persons on the two lists surely contestee's counsel could have found some who were willing to go upon the stand and testify that Bradley and McFarland were mistaken, to say the least, in reporting them as voting the Republican ticket and for contestant. They do not introduce a single one of these 104, and in the absence of this proof we are unwilling to set aside the testimony of the witnesses for the contestant.

In addition to this fact the witnesses for contestant are supported and corroborated by the fact sworn to by the colored witnesses put upon the stand by contestee, who swear that a majority of the colored men in district No. 10 were Republicans and professed a desire to vote the Republican ticket.

It appears from the proof that there were 99 colored men voting at Piperton and 142 colored men voting at Rossville, and it is apparent that if the official returns are true a majority of the colored voters in that district, instead of being Republicans, must have been Democrats. No witness for contestee claims that there was any special difference in the political preferences of the colored people in district No. 10 and the other districts of Fayette County or of the entire Congressional district.

The proof is that the overwhelming majority of all the colored voters in the entire district were Republicans, and no reason is suggested why this should not be true of district No. 10 as well as the other districts. Again, the witnesses for contestee, who were the officers holding the election, are directly interested in sustaining their own returns, to

which they had already sworn, and when we consider all these circumstances, taken in connection with the existence of the conspiracy to defraud already plainly shown in so many other districts of the county, we are forced to the conclusion that the witnesses for contestant told the truth and that contestant received at least as many votes as they swear to; and we recommend that that number be counted in his behalf, which would give contestant 95 votes at Piperton and 81 at Rossville, as against 51 at the former place and 166 at the latter for the contestee.

DISTRICT NO. 11, MACON.

In this district there were selected as judges two white men, supporters of contestee, and one negro, unable to read or write, not claiming to be a Republican, and almost idiotic, as his testimony shows. There is no pretense that a competent judge could not have been selected, and the selection of this person was plainly a part of the same conspiracy to defraud the contestant and the other candidates on the Republican ticket. It seems that the supporters of contestant were hopeless of securing any representation among the judges of election, and adopted an entirely different method of protecting themselves, or at least of proving what the vote of contestant and the Republican candidates was. On the morning of the election Mr. J. J. Clay, the most active supporter of contestant in this district, after consultation with the Republican leaders, agreed to place himself in front of the polling place, look at each ballot voted by the colored electors for Josiah Patterson, and publicly announce the fact that this was a vote for contestant. In order to keep a record of these votes he employed one A. D. Boswell, a white man and a supporter of contestee, to take down the names as he (Clay) called them out.

It was arranged that the Republican chairman should furnish the tickets to colored voters wishing to vote the straight Republican ticket, that these voters would go up one by one, each handing his ticket to Mr. Clay, before giving it to the officer; Clay would look at the ticket, announce in an audible voice, "Another vote for Josiah Patterson," and then direct the voter to hold the ticket up high so that everyone could see it, until he handed it to the officer of the election.

In this way 44 votes were cast and openly counted before the election board adjourned at noon for dinner. In the afternoon Gentry and Burnett, two other supporters of contestant, who had come from the adjoining district, placed themselves near Clay, and when the voting was resumed Clay showed to these two persons each ticket handed in. This process continued for some time after dinner, until 52 additional votes had been shown to Clay, Gentry, and Burnett, and had been taken down by Boswell, making the entire number so taken down by him 96.

There seemed to have been no special objection to this method of voting in the morning, but in the afternoon, one William Johnson, a justice of the peace of the district and an earnest supporter of contestee, came to cast his ballot. He was very much outraged and greatly indignant that the colored people should be allowed to show their tickets to anybody before they were placed in the box, and swore, when his testimony was taken, that if he had been there in the morning he would have stopped it long before he did. Shortly after reaching the polling place he began a quarrel with Clay, which continued with increasing acrimony until Johnson became so violent that Clay's friends interfered and induced him to leave the ground. When Clay left, his friends, Gentry, Burnett, and Boswell, went with him. Each one of them examined the

book in which Boswell had written the names and found that there were 96 of such names, and thereupon Boswell made a memorandum upon the book showing the number, the memorandum being "96 tickets." All four then went up to Clay's house, several hundred yards off. They then examined the book again, and found that one of the leaves had been lost. The book is exhibited with Boswell's deposition, and was an old memorandum book. Upon discovering that this sheet was gone Clay returned to the polling place and made a search for it, but was unable to find it.

It is claimed by contestant that the book, when exhibited by Boswell, still showed 76 names which Boswell had written down. This is denied by contestee's counsel, who insist that there were 105 names in the book. They make out a list in their brief of 24 names, which, as they claim, appear on Boswell's list, but not on the official poll list. Replying to this claim, contestant's counsel publish in parallel columns these 24 names and the corresponding names on the official list, and they insist that they are the same names, the slight differences between them being caused by clerical errors, either by Boswell himself or the stenographer taking his deposition. We think this claim is true, certainly as to the great majority of these names. There are not more than three or four names that are materially different; but even if these are discarded altogether there remains in Boswell's list, after the loss of the missing page, the names of at least 70 voters whom Clay swears he saw vote for contestant, whereas the official return only gives contestant 44 votes. None of these persons are introduced as witnesses by contestee, as they surely should have been if Clay and Boswell had falsely stated their real vote.

The proof for the contestee consists of that of the officers holding the election and several other witnesses introduced for the purpose of impeaching Clay; but Boswell is not impeached, nor is Burnett nor Gentry. If the testimony of Clay is disregarded altogether Boswell, Burnett, and Gentry still show that contestant received more votes than he is allowed by the official return, and when we connect their testimony with the character of the judge selected to represent and protect the Republican voters, and also with the fact, proven even by the witnesses for the contestee, that a large majority of the colored voters claimed to be Republicans, all this proof taken together is amply sufficient, in our opinion, to show that the official return was false and should be set aside.

According to his proof, the contestant received 96 votes, which were read out by Clay, and in addition the votes of at least 7 white men, whose names are given by the witnesses both for contestant and contestee. This would make the total vote of contestant at least 103. In addition, it is proven by Henry Mosby and Henry Owens that several votes were cast for contestant after Clay left the polling place and some before they began to count the vote openly, as above set out. They estimated the number of these additional votes at from 10 to 15.

Contestant claims that he received 125 votes, and while we think this is possible, and even probable, we can not say that he has shown this by sufficient proof. He has shown beyond a doubt, in our opinion, that he received 103 votes and some others, but how many is not at all clear.

On the other hand, the contestee has not proven more than a handful of votes, not exceeding 15 or 20, except by the official return, but this return having been shown to be false, can no longer be looked to as proof. According to the testimony we do not see how contestee could

be allowed more than 20 votes, unless we resort to estimates and allow him all the white vote except 7, who were shown to have voted for contestant. His witnesses do not claim that they knew or could name more than half a dozen colored voters who voted for contestee. Under a very liberal estimate it is probable the contestee received not more than 90 votes at this precinct. But as it is impossible to determine the real number under the proofs, and in making up his table of the vote the contestant allows contestee 115, we are inclined to allow that number for contestee, especially as in the judgment of the committee this will absolutely preclude any possibility of his being deprived of a single vote actually cast for him.

TIPTON COUNTY.

DISTRICT NO. 9.

Although we find some evidence in this district of a purpose to commit a fraud and indications of improper conduct in the election officers we do not feel warranted in rejecting the poll. The evidence fails to sufficiently satisfy us that contestant received more votes than were counted, although strongly suggestive of a tampering with the vote by those in charge of the poll.

DISTRICT NO. 10, MASON.

In this precinct H. E. Pettus and Beverly Johns, white, and William Fields, colored, were appointed judges by the county court. When the names of the judges and clerks were published in the county newspaper, there was published with them also the names of the sheriff's deputies, and among these deputies there appeared the name of J. J. White as the deputy selected to hold the election at this district. Contestee's counsel claim that White was removed, for some reason not disclosed, on the night before the election and J. E. Shelton substituted. Whether this be true or not, it seems that it was denied by the sheriff on the evening of the election after the polls were closed. At any rate, Shelton acted as election officer.

The colored judge, William Fields, being distasteful to the Republicans of the district, was advised to decline, and did so. Thereupon the supporters of contestant requested the appointment of S. C. Taylor, a white man, who had been known as a Gold Democrat, but who, according to his own testimony, appears to have voted the straight Republican ticket on the day of the election. Shelton declined to appoint Taylor, and appointed one Hare in the place of Fields. Hare had been voting the Democratic ticket since 1888, prior to which time he claimed to have been a Republican.

The supporters of contestant, fearing that a fraud would be perpetrated, advised their political friends not to vote until the afternoon, and it seems that only 48 votes were cast in the morning. Beginning shortly after dinner the Republicans began to vote, after first devising a most elaborate scheme to prove the number of votes cast for their ticket. The tickets were voted openly and were shown to several persons before being handed to the officer.

An account was kept of the number polled, and there were 169 straight Republican tickets cast by colored voters, every one having the name of contestant on it as a candidate for Congress. This is proven by W. L. Fields, who gave out the tickets, Peter Mason, Abe Hampton, and Richard Taylor, who saw the tickets when issued and also

when voted, Mason keeping a tally on an envelope, which he exhibits with his deposition. It is also proven by T. W. Green, S. C. Taylor, and Earnest Sherron, white men. In addition to this 169 it is shown that 18 other votes were cast for contestant by colored voters, making the total colored vote for him 187. There were also cast for him, according to the evidence, 17 votes by white electors. This would make 204 votes, according to contestant's proof, received by him at this precinct.

He claims in his notice and brief that he actually received 212 votes and that the officers of the election simply reversed the count between him and contestee, giving contestee his vote, and vice versa. This claim is based largely upon the testimony of Buford, who testified that one of the judges, Pettus, admitted this to him a day or two after the election.

Upon the closing of the polls T. W. Green and S. C. Taylor, two white men who had been selected to witness the count, made a formal demand that this privilege be allowed them, calling the attention of the officers of the election to the law giving them this right. The officer refused to admit them, and told them if they came in the vote would not be counted. Green and Taylor were very determined men and insisted upon their rights. Moreover, they told the officers in plain terms that they were going to stay with that ballot box wherever it went, and witness the count whenever it was made. In order to defeat this attempt to witness the count the officers adjourned, professedly for supper, though it was only then 4 o'clock, and two of the judges, Hare and Johns, took possession of the box and started off, saying that they were going to supper. Green and Taylor went with them, but after going a short distance the judges stopped and returned to the house where the election had been held. Thereupon a considerable crowd gathered around, and when Hare and Johns went back into the room the crowd closed in and cut off Green and Taylor, and the judges locked the doors and kept them out of the room.

In their defense of this admitted violation of the law counsel for contestee insist that there was very great excitement, and that the officers of the election acted prudently in refusing to allow any witnesses to be present when the vote was counted. There is some proof to the effect that there was considerable excitement, but we are entirely satisfied that the excitement was manufactured for the purpose. If there was any real excitement, it was caused by this very refusal of the judges to allow the friends of contestant to witness the counting of the votes. All the election officers, without exception, were supporters of contestee, and this talk of excitement was apparently gotten up in order to give these election officers some sort of excuse for refusing to allow any person present at the count besides themselves.

We do not understand that officers of election are vested with any discretion in this matter, as the law is clearly mandatory, designed for the purpose of insuring a fair count, and this of course is especially necessary where all the election officers, in violation of the law, belong to the same party and support the same candidates, as in the present instance.

We have no hesitation in recommending the entire rejection of the return from this precinct.

We further recommend that the contestant be allowed the 204 votes proved to have been cast for him, and that contestee be allowed the remaining 49 votes, which are perhaps more than the proof shows he received and which are as many as he could have received under any proper view of the evidence.

This disposes of the 10 districts against which the contestant brings charges of fraud.

COUNTERCHARGES OF CONTESTEE.

These, briefly stated, are two, to wit: The matter of the poll tax receipts, and the double return at the Tabernacle precinct in Tipton County.

THE POLL-TAX QUESTION.

It is charged by contestee that a large number of votes, to wit, 3,000, were cast for contestant upon poll-tax receipts which had been paid for by contestant's political friends and supporters, and that the votes so cast were illegal and should not be counted.

We have carefully considered the arguments submitted by the parties upon this question, and have examined the evidence relating thereto, and have come to the conclusion that none of these votes should be rejected for this reason.

We are of the opinion that when the voters accepted the poll-tax receipts for taxes paid by others for them, they ratified the payment so made for their benefit, and they thus constituted the parties so paying the taxes their agents in that behalf. Nor was it necessary that the voters should offer or bind themselves to repay such taxes to the person so paying them in order to constitute it a payment by the voter or a ratification thereof. The acceptance by the taxpayer of the receipt is in itself a sufficient adoption of the payment by another for him, and it makes no difference how or by whom the payment was made, the State's demand is fully satisfied by the payment and the delivery of the receipt to the voter, and his acceptance thereof is a final payment and appropriation.

Besides, according to a proper construction of the Tennessee statute, a voter who has any one of the evidences named in the statute that he paid his poll tax is entitled to cast his vote and have it counted upon exhibiting such statutory evidence, whether he paid his tax in person or some other person paid it for him, provided he adopts the act by availing himself of such receipt, even though such payment was by a political committee for the purpose of qualifying him to cast his vote.

Under a similar constitutional and statutory provision in Pennsylvania, except that the Pennsylvania requirement is that the poll tax must be paid thirty days prior to the election, the question was presented as to whether it meant that the poll tax was to be paid in person by the voter or whether it could be paid for the voter by political committees or other persons without the voter's previous authority or knowledge at the time of payment.

When it is averred that the voters had their taxes paid without their knowledge or previous authority, we must hold in this as in other cases that a subsequent ratification is equivalent to previous authority. (Re Dist. Atty., 11 Phila. (Pa.) Rep., 645.)

The voter may authorize another to pay his taxes for him, and this would be a good payment. And so where without his previous authority the tax of the voter is actually paid in due time by political committees or other persons, and such payment is not made the means of influencing or controlling his vote, a subsequent ratification of the prior unauthorized payment is equivalent to the giving of prior authority. (Re Griffith, 1 Kulp, Pa., 157.)

The Congressional contested election case of *Massey v. Wise* expressly holds that the "votes cast on tax receipts issued by the tax collector * * * which were paid for by the voters or *other persons for*

them prior to the day of election were legal votes and were properly received and counted by the election officers." (Mobley, p. 366.)

Nor is the mere furnishing and acceptance of such receipt a corrupt act or proof of bribery. It must appear that such payment of a tax by another than the voter and delivery to him of the receipt therefor was done as an inducement or consideration for the vote or for the purpose of influencing the choice of the voter. The evidence utterly fails to establish these elements, or even to identify any sufficient number of voters voting on such tax receipts to affect the result. Indeed, there is no adequate or competent proof that such voters for whom poll taxes were paid actually voted for contestant, or to what extent their votes were included in the returns.

The Virginia statute is even more stringent in its terms, in that it expressly provides that a person paying such poll tax for another with the intent thereby of influencing his vote shall be liable to a penalty, as shall also the person whose tax is thus paid. It was held by the United States circuit court that under this statute an election officer could not reject the vote of such persons even if his tax had been thus paid by another for the purpose of securing his vote. (See *U. S. v. Foster*, 6 Fed. Rep., 248.)

The evidence discloses that our view of the law of Tennessee has long been the accepted interpretation in that State, and that it has been sanctioned by the common practice of all parties. Even in this very election it seems from the evidence that poll taxes of voters were paid by friends of the contestee, and that the full extent thereof only was not developed, because such investigation was irrelevant under the notice of contest and answer which form the pleadings in the case.

As to such votes as may have been based upon tax receipts issued by the collector or his agent without an actual payment, as to a limited number of which there seems to be some evidence, it may be said that they are so few as not to be able to affect the result in any material degree.

And even if they could, we are disposed to hold that unless the fact of such actual nonpayment was known to the voter his acceptance of the receipt in good faith constituted his discharge as between him and the taxing authority, and under the law the liability of the collector to account for the tax became fixed.

The voter thereupon became qualified to cast his vote upon exhibiting his receipt, and the acceptance thereof by the election officers was an adjudication of his right which could not be afterwards collaterally set aside, especially after he had lost his opportunity to perfect his right had it been questioned before casting the vote.

We find no sufficient ground in this matter of the poll-tax receipts as disclosed by the evidence to reverse or modify in any substantial respect the conclusions already arrived at in this case.

THE DOUBLE RETURN AT TABERNACLE.

The only other material countercharge is the contention that the sheriff of Tipton County erred in counting both boxes of the double election at Tabernacle precinct.

We do not consider it necessary to enter into any elaborate discussion of this contention, because even if allowed it would not affect the result.

We might say, however, that if the sheriff did make any mistake at all it was in counting the returns from the box held by Bell, the sheriff's

deputy. It is clear to us, from an examination of the evidence, that Bell was attempting a plain and palpable fraud, and if the point had been made by the contestant in his notice we would have been disposed to recommend under the proof already in the case that the vote from the box held by Bell and the persons appointed by him as judges and clerks be excluded, and that the 77 votes counted for contestee from that box be rejected.

CONCLUSION.

Taking the most conservative view of the case, and disregarding every claim of the contestant as to the justice of which the evidence appears to us as in the least doubtful, and relying only upon the changes indicated in the foregoing report, we find that, instead of there having been a majority of 365 for contestee, there was an actual majority of at least 1,242 votes for contestant.

This result will appear from the following table.

Corrected vote.

	Patterson.	Carmack.
Uncontested districts.....	10, 187	8, 980
Contested districts, Fayette County:		
District No. 2 (Eola).....	62	134
District No. 3 (Fayette Corners).....	0	0
District No. 4 (Yum Yum).....	38	11
District No. 6 (Braden).....	17	52
District No. 6 (Galloway).....	247	0
District No. 8 (Oakland).....	159	241
District No. 9 (Canadaville).....	0	77
District No. 10 (Piperton).....	95	51
District No. 10 (Rossville).....	81	166
District No. 11 (Macon).....	103	115
District No. 9 (Mason).....	15	90
District No. 10 (Mason).....	204	49
Total.....	11, 208	9, 966
Majority for Patterson.....	1, 242	

We therefore recommend the adoption by the House of the following resolutions:

"1. *Resolved*, That E. W. Carmack was not elected a Member of the Fifty-fifth Congress from the Tenth Congressional district of the State of Tennessee, and is not entitled to the seat now held by him.

"2. *Resolved*, That Josiah Patterson was elected a Member of the Fifty-fifth Congress from the Tenth Congressional district of the State of Tennessee, and should be awarded the seat now held by contestee."

JAS. A. WALKER.

W. S. MESICK.

W. S. KIRKPATRICK.

A. V. S. COCHRANE.

H. S. BOUTELL.

E. D. CRUMPACKER.

JOSIAH PATTERSON vs. EDWARD W. CARMACK.

APRIL 7, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. BRUNDIDGE, from the Committee on Elections No. 3, submitted
the following as the

VIEWS OF THE MINORITY.

[To accompany House Res. No. 281.]

We, the undersigned, members of the Committee on Elections No. 3, to whom was referred the case of Josiah Patterson, contestant, v. Edward W. Carmack, contestee, from the Tenth district of Tennessee, beg leave to report:

The Tenth district of Tennessee, in which this election was held on the 3d day of November, 1896, is composed of the counties of Fayette, Hardeman, Shelby, and Tipton. The contestant and contestee were both Democrats, and each claimed to be the nominee of the Democratic party. The contestant was also indorsed by a faction of the Republican party known as the Lily Whites, and was also indorsed by the other Republican faction in this district, known as the Black and Tans, but the manner in which the last indorsement was obtained is charged and proven by the contestee to have been bribery, and was severely commented on during the canvass by W. A. Fields, a colored candidate for the nomination, who charged that colored Republicans like himself had been sold out for price. The methods by which this sort of an indorsement of Republican conventions seems to have been procured do not meet our approval.

In the counties of Hardeman and Shelby, which contain about four-sixths of the population of the district, and in which the contestee has a majority of 64 votes, the election is admitted to be fair by the contestant, and these counties need no further consideration. It is admitted by the contestee that at the Braden box, in Fayette County, 13 votes should be taken from him and 13 added to the contestant, and no further consideration need be taken of this box.

The contest is thus reduced to eight boxes in Fayette County and three in Tipton, of which No. 9 and No. 10 are disputed by contestant; at Tabernacle the contestee, by counter charge, insists that the 176 votes returned for contestant at the election held at Mrs. Ross's store should be rejected because held at an improper place and by unqualified officers.

OUTSIDE POLLS.

As there were two boxes in Fayette County, to wit, Gallaway and Oakland, and one in Tipton County, to wit, Tabernacle, where double elections were held, we will consider which of these were the regular polls and which alone can be counted, it being an indisputable principle of law that there can be but one lawful election held at the same time and same place for the same office. And it is further well settled, both by the decisions and text writers on contested election cases, that there is no law, State or national, which authorizes electors, who believe that their votes will not be counted at the regular polls or for any other imagined reason, to resort to the holding of an election for themselves at an outside poll. This question came up before the Forty-third Congress in the case of *Gause v. Hodges*, and a committee on election reported as follows:

INDEPENDENCE, JACKSON, AND WOODRUFF COUNTIES.

In each of these counties, at one or more voting places, persons considering that they had a right to vote, which right had been denied them at the regular polls, and perhaps others who simply desired to vote, organized what has been called "outside polls." These persons, assuming to act as officers at these outside polls, made returns to the clerk of the county, and the contestant claims that the votes thus returned shall be counted.

The committee are unable to find any authority for such a proceeding in either State or national law.

The national law provides a way in the election of Congressmen and Presidential electors by which persons having the right to vote can make that right available to them when it is denied them at the regular polls. These persons did not think proper to pursue this course. They resorted to this new scheme outside the law, subversive of the purity of elections and revolutionary in the extreme.

It can not be urged that the persons making these returns are election officers. Their certificate, then, can have no legal force, and can furnish no evidence that what they certify to is correct.

There is no evidence that a single one of these participants at the outside voting had any legal right to vote, and the whole claim for the allowing of the vote rests simply upon the certificate of these self-constructed and illegal officials.

In that case, as in this, there was no evidence as to the votes at these irregular polls except the return of the persons who held the election, and that was held to be insufficient. (*McCrary on Elections*, 3d ed., sec. 241, p. 162; *Paine on Elections*, sec. 443, p. 374; *Word v. Sykes*, 61 Miss., 649.)

AS TO THE PLACE OF HOLDING THE ELECTION.

Elections must be held at proper place.—There is less latitude allowed in changing the place at which an election is held than in varying the time of opening or closing it; and it is a rule to which there are very few exceptions that an election held at any improper place will be held absolutely void, without proof of any fraud or injury. (*Amer. and Eng. Ency. of Law*, vol. 6, p. 321; *White v. Richards*, N. Y. Cont. El. Cases, 31; *Howard v. Cooper*, 2 Cong. El. Cases, 275; *Acklen v. Darrell*, 5 Cong. El. Cases, 131; *Knowles v. Yeates*, 31 Cal., 82; *Melvin's Case*, 68 Pa. St., 333; *Chamberlain v. Dover*, 13 Me., 466; *Walker v. Sanford* (Ga.), 1 S. E. Rep., 424.)

The Tennessee law as shown in *Milliken and Vertrees Code* is as follows:

SEC. 1041. The places of holding elections shall be in each civil district at some convenient locality, to be designated by the county court at least six months before the election, and entered of record.

SEC. 1042. The court-house of the county is always a place for voting, although other places may be established in the civil district in which the court-house is situated.

A fixed place, it seems to me, says Thompson, C. J., in *Chadwick v. Melvin*, 68 Pa. St., 484, is as absolutely requisite according to the election laws as is the time of voting. The holding of election at the place fixed by law is not directory; is mandatory, and can not be omitted without error.

It must be conceded by all that time and place are of the substance of every election, while many provisions which relate to the manner of conducting an election may be directory only.

Dicks v. Hulbut, 5 Cal., 343, cited in section 141, *McCrary on Elections*, in the case of *De Berry v. Nicholson*, 102 N. C. Reports, page 465, the supreme court says, Chief Justice Smith delivering the opinion:

"The vote given at a polling place must not be rejected because of a disregard of those directions contained in the statutes, except as to the *time* and *place* of holding the election."

Other statutory provisions, with the exceptions above, are *directory* and not *mandatory*. The *time* and the *place*; a *fixed*, known, established *place* of election are essentials, vital and mandatory, and can not be changed except in strict conformity with the provisions of the statute, and upon public notice first being given, in the way, for the period, and in the manner required by law.

Now, at Tabernacle, in Tipton County, it is shown that the regular place for holding the election was at Dr. Hunter's office. (See testimony of W. A. Cotton, Supplement Record, p. 217.)

At Galloway and Oakland no testimony was taken as to what house the election had formerly been held in, but at both places it is shown that the regularly appointed deputy sheriff had selected a place for holding the election and that the friends of the contestant did not attempt to hold their election, but went off to another house, and therefore did not hold what they claim was an election at the proper place.

ELECTION OFFICERS.

The laws of Tennessee as to the election officers are as follows:

MILLIKEN AND VERTREES CODE.

SEC. 1047. The county court at the session next preceding the day of election shall appoint three inspectors or judges for each voting place to superintend the election.

SEC. 1048. The judges shall be appointed from different political parties, if there be such parties who are willing to serve; and they shall be appointed from at least two different political parties most numerous represented in such ward or district.

SEC. 1049. If the county court fail to make the appointment, or any person appointed refuse to serve, the sheriff, with the advice of three justices, or, if none be present, of three respectable freeholders, shall, before the beginning of the election, appoint said inspectors or judges.

SEC. 1050. If the sheriff or other officer, whose duty it is to attend at a particular place of voting under the foregoing provisions, fail to attend, any justice of the peace present, or, if no justice of the peace be present, any three freeholders may perform the duties prescribed by the preceding section, or in case of necessity may act as officers or inspectors.

From these statutes it will be seen that the county court, which is composed of all the justices of the county, may appoint the judges of election, and in default of this the sheriff may, with the advice of three justices, or, if none be present, three respectable freeholders, appoint three judges; and it is insisted by the contestant that if the three justices are present the sheriff can not appoint without the advice of these justices. This statute has been construed by the supreme court of Tennessee and the decision is directly against this contention. In the case of *McCraw against Harralson* 4 (Conwell's Report, page 42), Milligan, judge, said:

It is also insisted that, inasmuch as the county court failed to appoint inspectors or judges of the election, that their appointment by the coroner without the advice

of three justices of the peace was unauthorized and communicated no authority to them to open and hold the election; there is nothing in this exception, nor is there anything in the one which immediately follows it—that the inspectors or judges at two of the voting precincts were not sworn under the act of 1865, Chapter K, section 7. The Code provides (sec. 842): “If the county court fail to make the appointment, or any person appointed refuse to serve, the sheriff, with the advice of three justices, or, if none be present, three respectable freeholders, shall, before the beginning of the election, appoint said inspectors or judges.”

This provision of the statute, we apprehend, is merely directory, and whether the appointment is made by the county court, the sheriff, or the coroner, as the case may be, by and with the advice of three justices or an equal or less number of justices or respectable freeholders, the result is the same. The object of the statute is to secure just and competent inspectors, and when that end is attained without prejudice to the contestant, it constitutes no ground for declaring the election void. Were the law held otherwise, and a strict conformity in all respects to its letter exacted of every officer holding popular elections, it would result in interminable contests about unsubstantial formalities, and end in practical denial of the people to choose their own officers.

This being the law, now let us examine these several precincts, where it is claimed fraud or irregularity is shown, in the order in which the majority have considered them.

DISTRICT NO. 2, EOLA.

In this district the contestee received 172 votes and the contestant 24, as is shown by the sworn returns of the election, but by the majority report the contestant is allowed and has counted for him 62 votes, and the contestee is only allowed 134. It is interesting to briefly review the evidence which was deemed entirely sufficient to justify the majority of the committee in making this finding.

But four witnesses were introduced for the purpose of impeaching the returns of this precinct—George B. Hendon, R. M. Fowler, W. J. Smith, and Howard Huskins, a colored man.

Hendon testifies that he, with others, had for a number of years controlled the elections of the county in the interest of the contestant; that he was a professional ballot-box stuffer, had often sworn to false returns, and would do so again in the contestant's interest. (Record, p. 771.)

R. M. Fowler testifies that he was employed by the contestant, who paid him \$10 to go to Somerville as a protector to Hendon. He says he saw the negro Huskins give out some tickets, and he supposes the voters voted them; that Hendon carried whisky down there, and they were drinking all day. (Record, pp. 56, 59.)

W. J. Smith testifies that he received money for his services; saw Huskins issue some tickets; saw some of them voted; was the only Democrat in the district that supported contestant; that he got drunk and was drunk all that day, and in addition he was successfully impeached. (Record, pp. 65-67, 68.)

The only other witness is Howard Huskins, who is an ignorant negro; and while he swears he can read and write, his own testimony shows he can not, for he says that McKinley's name was on the ticket, also a candidate for United States Senator. Besides, one of the very men whom he swears he voted for the contestant is placed upon the stand and impeaches Huskins, for he not only swears that he voted for the contestee, but says he worked for him all that day. (Record, p. 93.)

Evidently this negro was only a hireling of the contestant's other witnesses, and was ready to do or swear anything they told him.

We are unwilling to give sufficient weight to this kind of evidence to overturn the sworn returns of election officers, especially when it is

shown, as in this case, that they were reputable and good citizens, and we are unable to understand how anyone else can; think the vote should stand as returned.

DISTRICT NO. 3, FAYETTE CORNER.

In this district the contestee received 130 votes and the contestant 84.

The majority of the committee find that the entire poll should be rejected, admitting that the proof is not so full and satisfactory as other districts, but add, "There are circumstances which show the official returns to have been fraudulent."

These circumstances are defined to be the refusal of the deputy sheriff to give contestant's friends a suitable judge (both of these parties claimed to be Democrats, and they could not give Patterson a judge without violating the law), and the refusal of the election officers to permit them to witness the count.

J. M. Crawford is the witness who testifies that he asked for a Patterson supporter among the judges and clerks of the election, and also asked to witness the count. This witness is also a confessed ballot-box stuffer, and admits he was indicted in 1888 for election frauds. (Record, p. 97.)

The proof shows that this man Crawford, when he demanded to witness the count, did so in a very angry and profane way. (Record, p. 842.) The proof further shows that the election was held in a small room—only 8 by 10 feet—and had Crawford been admitted others would have, and did, demand the same privilege, and to have admitted them there would have been but little or no room for the officers to have counted the ballots.

It is shown by the evidence that all of the white voters—102 in number—except about 10 in this precinct, voted for the contestee. Besides, J. A. Crowler, a witness for the contestant, says there were a great many Democratic negroes in the district. And Anderson Shelton, an intelligent negro, testifies that he and others of his race worked and distributed tickets for the contestee, and a great many of them voted for the contestee. He also testifies that the contestant was very unpopular with the colored people. (Record, pp. 835, 836.)

In view of this testimony, we feel that the rejection of the vote of this precinct is not warranted by either the law or the evidence, and the vote should remain as returned.

DISTRICT NO. 4, YUMYUM.

In this district the official returns give to the contestant 10 votes and to the contestee 305. By the majority report it is claimed that the returns are vitiated for fraud and the vote is thrown out, except 38 votes, which it is claimed are proven for contestant, and 11 for contestee. It is true that in this district the contestant put 36 witnesses on the stand, all of whom, except 3, were colored, and the most of them have testified that they voted for Mr. Patterson for Congress. But it is disclosed that they only knew this fact because they had been told that he was on their tickets; but by an examination of the proof and circumstances connected with this district, we find a peculiar condition of affairs.

In the first place, we find that there were in this district between five and six hundred colored voters; not half of them voted or attempted to vote, and a large portion of those who did vote voted the Democratic ticket. There are two reasons assigned for this failure, and they

explain very fully why the contestant did not receive as large a colored vote in this district as he did in the adjoining district, which is No. 5.

Practically, all the witnesses introduced have testified that the contestant was very unpopular with the colored people of this district, partly because of the very bitter way in which he had denounced them in his public speeches and partly because of his defense of his star witness, one E. E. Carpenter, who had been indicted for stuffing ballot boxes and defrauding these very negroes for a long period of time. The following witnesses testify as to his unpopularity: John H. Wainwright, Record, page 147; Allen Brewer, Record, page 157; Mitchell Cortrell, Record, page 162; Joe Bone, Record, page 181; Allen Jones, Record, page 229; Alf. W. Curran, Record, page 246; Mount Taylor, Record, page 277; Henry Murton, Record, page 306; Arter Atkinson, Record, pages 333, 334; Levi Jones, Record, page 154; Andrew Hobson, Record, page 159; Joe Hobson, Record, page 165; Ed. Maris, Record, page 207; Al. Watkins, Record, page 238; Bob Hobson, Record, page 250; Bob Maris, Record, page 298; John Beasley, Record, page 327.

E. E. Carpenter also testifies as to the unpopularity of the contestant with the colored people. (Record, p. 126 et seq.)

The second reason assigned for the failure of the colored people to vote in this district is given by Mr. Dutro, the chairman of the Republican Congressional Committee, who says that he did not distribute any campaign money in this district. We quote from his testimony as follows:

Q. Now, I will ask you if you remember any special district in Fayette County, or in any other county of the Congressional district, in which you refused to pay the poll taxes?—A. Yes, sir; there is. I refused to pay the poll taxes in District No. 4, of Fayette County, although I had a list furnished me of quite a number. I refused to pay them out there, and some of our voters were very much chagrined about the matter, as they had gone to a great deal of trouble, and some of them were inclined to think that I had gone back on them. (Record, vol. 2, p. 11.)

But let us look at the evidence and its character. E. E. Carpenter, the principal witness to impeach the returns, says he was sent out to this precinct in the interest of the contestant and fair elections. This witness, like some of the others referred to, admits that he has been a ballot-box stuffer, and gained his principal distinction in that line of business (Record, pp. 196–199–200). It is also shown from the evidence that the first important step this witness took in the interest of fair elections, after he arrived on the scene, was an attempt to bribe the officers of the election in the interest of the contestant, and failing in this, he was selected to go out among the colored people and select the witnesses who were to be examined by the contestant in this precinct. He selected about 75 colored men, and caused them to be summoned as witnesses, but for some reason only about one-half of them were ever put upon the stand or asked to testify; and those that were examined were, for the most part, ignorant, and they had all been thoroughly drilled and tutored by this man Carpenter and others before they were permitted to go upon the witness stand.

It is highly probable that Mr. Carpenter, having failed in his efforts to bribe the officers of the election, was decidedly more successful with the negro witnesses, and it is a singular coincidence that so many men of his kind, as is shown from their own testimony, were the party leaders and friends of the contestant in his memorable fight against frauds and in the interest of fair elections.

Again, the proof shows that one Jim Robinson, who claimed to be distributing Republican tickets with contestant's name on them for

Congress, was, in fact, distributing Democratic tickets, on which was the contestee's name. (See Record, pp. 912-916.)

It also appears there were some four different kinds of Republican tickets there, and on some of them the contestant's name did not appear.

Considering all these facts, we do not think that the evidence and methods by which the returns are sought to be proved fraudulent justify us in so finding, and we think they should be counted as returned.

DISTRICT NO. 6, BRADEN.

In this district it is agreed by both parties that the vote of the contestant should be 17 and of the contestee 52, making a loss of 13 to the contestee and a gain of that number for the contestant. This change being made by agreement of parties, it is not necessary that we should give further attention to this precinct, but we do not think that this admission proves fraud in the election.

DISTRICT NO. 6, GALLOWAY.

At this box there is no testimony as to what was the regular place of holding the election, but the testimony all shows that John Braden was the regular deputy sheriff, and that he went to the office of Dr. Battle to open the polls, and that Squire Griffin, a friend and witness for contestant, swore in the judges of election in this office; and, as an officer is always presumed to do his duty, it must be presumed that the office of Dr. Battle was the regular place for holding the election. It further appears that John Braden did hold an election in that office on that day, and further, that the polls opened by Squire Griffin was in a brick house in another part of the village. (See testimony of Beatty, Sup., 175.)

It further appears from the testimony of Squire Griffin, who was one of the members of the county court of Fayette County, that this court did not appoint any judges for this election, and had not done so for many years. (See this testimony, Rec., 534.)

Q. 25. Did your county court appoint judges at the August election of 1896?—A. It did not.

Q. 26. Did your county court appoint judges at the November election, 1894?—A. It did not.

Q. 27. Did they appoint judges for the August election, 1894?—A. I don't suppose they did.

Q. 28. Did the county court appoint judges for the November election, 1892?—A. Well, I will just answer that in this way—that the county court has not appointed any clerks and judges for a number of years, to my recollection. My recollection is that they have not appointed any judges and clerks for election for a number of years in this county.

It further appears that Deputy Sheriff John Braden, upon the advice of justices and freeholders whom he consulted, selected judges, two of whom were sworn in by Squire Griffin.

He was advised that the third should be a Republican, and it is insisted for contestee that Sheriff Braden made diligent efforts to procure a Republican judge, and selected one Ed. Brown, who was willing to serve, and who was going in Dr. Battle's office to serve, when he was violently seized by one Oscar Wilder, a Democrat and friend of contestant, who prevented him from serving, and who also persuaded another Republican, Mat Payton, who had been selected as a judge, from serving, and did this evidently for the purpose of forcing the sheriff to select Oscar Wilder himself as a judge, who had been paid \$25 by the contestant, as he admits. (See Record, p. 584.)

It is undisputed that an election was held by Deputy Sheriff Braden at Dr. Battle's office on that day for Galloway, and it is insisted by contestee that no substitute for the sheriff could be appointed to hold an election while the sheriff was present. On the other hand, contestant insists that in order to prevent the total failure of an election the electors have the same right to appoint a substitute for the sheriff, when he refuses to hold an election, as when he is not present.

Admitting this to be true, the burden of the proof is upon the contestant to show clearly, by a preponderance of evidence, that the sheriff did refuse to hold the election and abandoned the place of holding the election before any substitute for the sheriff could be appointed.

Two witnesses for the contestant, to wit, J. E. Griffin, esq. (see Record, 539), and A. S. Wilder (Record, 577), testify that Braden did say that he would not hold an election and that he and all the election officers who had been sworn left Dr. Battle's office and abandoned all idea of holding an election that day.

If this is true Squire Griffin should have selected proper officers to hold the election and the polls should have opened then and there, at the regular place, to wit, Dr. Battle's office; and the fact that he and the friends of the contestant went off to the brick house, some distance away, is a circumstance to show that the office of Dr. Battle had not been abandoned by the friends of contestee.

Contestee denies that the sheriff ever abandoned the idea of holding an election; that he only left the office of Dr. Battle to search for a Republican judge; that he intended all the time to hold an election as soon as he could get a Republican judge; that he was hindered and delayed in this matter by the action of contestant's friends, and that he proceeded to hold the election as soon as a third judge was procured.

Four witnesses sustained this contention.

W. Beatty (Sup., 173, 174, and 175) says:

10. Q. Who was the regularly appointed officer by the sheriff of Fayette County at Galloway?—A. Mr. John Braden.

(Counsel for contestant objects to this question because it calls for the opinion and judgment of the witness.)

11. Q. Were the polls opened promptly at 9 o'clock on that morning?—A. No, sir.

12. Q. You have stated that the polls were not opened promptly at 9 o'clock.—A. No, sir; they were not.

13. Q. Will you please take your time and tell, in your own way and just as long as you please, why it was that the polls were not open on that morning at the time they were due to be opened?—A. Well, I got there about or nearly 9 o'clock—I suppose it was about that time—and the officer started to open the polls—open the election—and went to get to elect the officers and the clerks and the judges. I was not a regularly appointed judge, but was called in in place of Mr. John Goff. I was asked to serve in his place, as he could not leave home, and I of course agreed to do so, and the officer proceeded to open the election. He was interfered with by other parties.

F. S. Layton (Sup., 192 and 193) says:

9. Q. Were you in the town of Galloway on election day in November, 1896?—A. Yes, sir.

10. Q. Do you know who was the officer appointed by the sheriff to hold the election at Galloway?—A. John Braden was the man.

11. Q. Were you at or near the election on the morning the election was held?—A. Yes, sir.

12. Q. Did you see John Braden there?—A. Yes, sir.

13. Q. Just before the polls opened, please state what, if anything, you saw pass between John Braden and Mr. Oscar Wilder.—A. I didn't see anything pass between them; I was not in the house; I was around there, and didn't see anything pass between them.

14. Q. What efforts, if any, did John Braden make to open the polls that morning?—A. All I know about it is that he was trying to get a judge; I was sitting in front of the store, and he came up there to get one.

15. Q. Was that after Mr. Wilder is said to have interfered with Ed. Brown, the Republican judge selected to act?—A. Yes, sir; it was after that.

16. Q. Did Mr. Braden continue his efforts to organize an election board and open the polls until he succeeded in opening them?—A. Yes, sir; he did.

17. Q. You have stated you were a Democrat?—A. Yes, sir.

18. Q. Was it an election in which you felt considerable interest?—A. Not much more than common; of course I felt an interest in the election.

19. Q. Did the Democrats here present at any time contemplate not opening the polls?—A. Not that I know of.

20. Q. Was it not understood by them all at and around Dr. Battle's office, where they were congregated, that the polls would be opened as soon as a board could be organized?—A. Yes, sir; they had had some considerable trouble and didn't know what would happen, but their intention was to open the polls.

Dr. W. B. Battle (Sup. 195) says:

58. Q. Were you there at your office all the time from the time that Mr. Oscar Wilder interfered with Ed. Brown, when Mr. John Braden brought him up there, until the polls were opened at your office?—A. I was in and about the office, but I was not all the time with John Braden; I was most of the time out of the office.

59. Q. Can you state whether it is a fact or not that John Braden persistently endeavored to open the polls until he did?

(Counsel for contestant objects to the above question because too leading and suggestive.)

A. Yes, sir; I consider that John Braden tried to get the polls open as quickly as he could until he succeeded.

60. Q. Is it not a fact that John Braden was advising with you and other Democrats, and that he began to advise with you as soon as Mr. Wilder interfered with Ed. Brown, and that you all agreed that you would organize and open the polls?

(This question is objected to by counsel for contestant as being too leading, and suggests to the witness the answer which he is desired to make.)

A. Yes, sir.

61. Q. You say when Oscar Wilder caught hold of this negro he told him he could not go in?—A. Well, Mr. Wilder had hold of him, and said he couldn't serve.

62. Q. Who was with Oscar Wilder?—A. There was a good crowd of people around there; I don't know that he had any assistance in holding him.

63. Q. Where was Esquire Griffin?—A. He was standing there in a few feet, 8 or 10 feet, perhaps a little more.

64. Q. Was Spurgeon Wilder there?—A. Yes, sir.

65. Q. Take any part in the conversation?—A. Yes, sir; after they commenced to argue the question.

66. Q. Were you in your office when Squire Griffin was in there and swore these judges?—A. Yes, sir; I think I was there.

W. R. Wall (Sup. 202) says:

1. Q. Where do you live?—A. On the Somerville road, 3½ miles from Galloway.

2. Q. What is your name?—A. W. R. Wall.

3. Q. You live in this civil district and county?—A. Yes, sir.

4. Q. Were you in Galloway on election day in November?—A. Yes, sir.

5. Q. Do you know Mr. John Braden?—A. Yes, sir.

6. Q. Did you see him on election day?—A. Yes, sir.

7. Q. Before the polls were opened?—A. Yes, sir.

8. Q. Please tell what, if anything, you saw happen on that morning between Mr. John Braden and any other person?—A. I was there around the office and I saw Mr. John Braden have a negro—I don't know his name—and they said he was going to act as one of the judges; and I saw Mr. Wilder meet him and tell Mr. Braden, "That negro can't serve." I don't know that these are his exact words, but was something like that.

9. Q. You did know the negro's name?—A. No, sir.

10. Q. Was anybody with Mr. Wilder there?—A. There was a big crowd around there.

11. Q. Where did you vote?—A. At Dr. Battle's office.

12. Q. What is your politics?—A. Democrat.

13. Q. How long have you lived in this district?—A. Twenty-four years.

14. Q. Look at this poll list and see if you know these men and if they are entitled to vote at Galloway.

Looking at this testimony carefully, we are not satisfied that the contestant has shown by a preponderance of evidence that Sheriff Braden abandoned the purpose of holding an election at Galloway,

and left Dr. Battle's office. The preponderance of evidence seems to be in favor of the contention that the sheriff opened the polls as soon as he could have done under the circumstances, and that the election held by him was the regular election for Galloway.

OAKLAND.

Here E. G. Griffin was the deputy appointed by the sheriff under the statute above set out to hold the election at Oakland. On the morning of the election, just before 9 o'clock, he called on three freeholders, J. B. Flippin, J. B. Reid, and W. A. Pierce. These appointed the judges and clerks, who were sworn in just a moment or two before the hour for opening the ballots, by G. H. Reams, one of the two justices of the peace in the district, and said Reams testified that the appointment of these judges and clerks met with his approval.

These officers of election thus regularly constituted proceeded to and did hold the election at Oakland, at which contestee received 241 votes and contestant received 5.

Nothing can be clearer from the proof than that the so-called election held at box No. 2 was simply an outside poll, and that the votes cast thereat for contestant can not be counted, and the 62 votes cast for the contestee at said box No. 1 should be counted; but by the majority report these 62 votes are rejected and thrown out, and the 247 votes cast at box No. 2 are counted for the contestant.

We are of the opinion that the poll opened by Griffin at the brick house where these votes were cast were the outside polls, and that the returns thereof can not be counted, and we are strengthened in this opinion by the fact that the contestant, in his notice of contest, seeks to have these 247 votes counted, because, he says, "they were legal voters and their votes ought not to be lost simply because they were badly advised as to which of the boxes they should vote at."

At this outside poll the contestant received 159 votes, which the majority of the committee say should be counted for him, though they admit in the report filed that they have had some difficulty in deciding upon a proper recommendation as to the counting of these votes.

The evidence shows that the only reason or necessity for establishing this outside poll was the suspicion of some of the friends of the contestant; but they themselves show that they knew full well that their acts were illegal in establishing this poll, for, after they had for some time conducted the same, they went to the regular box No. 1, and cast their own ballots, although they were acting as judges at box No. 2. If they had no confidence in the validity of their own acts, we can not understand how anyone else could be expected to have; and to count votes at such an illegal poll would be to destroy all the restrictions and legal safeguards placed by law around the ballot, and make the whole system of elections a sham and mockery, for if the contestant's friends had the right to set up voting places to suit themselves and select their own judges and clerks, without regard to law, then every other candidate must have had the same rights, and if they had exercised them there would not have been enough voters to have acted as judges, nor enough houses in the town to have held the elections in.

DISTRICT NO. 9, CANADAVILLE.

It is unnecessary for us to discuss or take any further notice of the evidence in the record pertaining to this precinct, as it is admitted by the majority that the testimony is not sufficient to require the rejection of the poll, and the voters who declined to vote or even tender their

votes can not, of course, be counted. The official returns of that district must therefore stand as returned.

DISTRICT NO. 10, ROSSVILLE PRECINCT.

We utterly dissent from the conclusions reached by the majority with regard to this precinct. They base their report with regard to it upon the testimony of Henry McFarland, the vice-chairman of the Republican committee for the district. The returned result in that precinct was, for Carmack, 212; for contestant, 35.

McFarland states in substance that he issued 81 Republican tickets containing contestant's name to the voters; that he made a list of the names of these 81 voters; that he saw each man on the list vote, and that they voted the tickets that he gave them.

So far from there being any corroboration of this witness's statement, the alleged list exhibited by McFarland shows the names of 16 persons, at least, as having voted on that day for contestant, and the poll list exhibited with the testimony of C. W. Gentry, contestant's witness, shows that no such persons voted there at all. A further comparison of the alleged list made by McFarland with the official poll list introduced in evidence by the contestant (p. 429 of the Record), develops the further circumstance that it is extremely doubtful, and even more than doubtful, if 10 of the other names on McFarland's list voted at all.

The character of this witness (McFarland) should be borne in mind, for, on cross-examination, he denied absolutely that he received a cent for the part that he took or the work that he did in the election, but afterwards admitted that he had received \$10 and such other sums as he could make by reason of the fact that a number of poll-tax receipts were sent to him by the party managers, who had paid for them or were to pay for them, with permission for him to sell them for such sums as he could secure. (See Record, p. 386.)

The list introduced in evidence as having been made by him on the day of the election, bears internal evidence to the contrary, owing to the absence of any erasures, or finger marks, or soil, such as would naturally occur to a list made up under the circumstances he testifies to, and is in the record as clean as if it had been prepared but a short time before the testimony was given. He testified that one Tom Taylor assisted him in making up his list, and yet, notwithstanding the fact that McFarland's character was assailed by contestee in such a manner as to discredit his testimony, Taylor was not called to the stand to corroborate McFarland. We find from our examination of this testimony that the list testified to by McFarland is utterly worthless and unreliable, and can not be accepted as proving anything in this case. We can not consent to the rejection of the official returns from this precinct upon such doubtful and worthless testimony as McFarland and his list. Against it is found the testimony of Claude Roach, the Democratic judge; G. W. Taylor, the Republican judge; J. H. Ballard, one clerk of the election; Stonewall Mathews, the other clerk; and Sol. Martin, the sheriff's officer of the election. All these witnesses testify to large numbers of colored people voting the Democratic ticket and to the unpopularity of the contestant among colored Republicans.

We invite the attention of the House in this connection to the testimony of Jake Wilson, a colored man, pages 969 and 970 of the record, who states that he voted for Carmack, used his influence for him, told everybody who asked him that he was for Carmack, and talked with voters on election day in the interest of Carmack, heard several colored men say there was a good crowd of colored men going to vote for Car-

mack, and that the colored people didn't speak kindly of Patterson. The testimony of G. W. Taylor, page 971, is to the same effect, as is that of several other witnesses.

We conclude, therefore, that the contestant was not popular with the colored Republicans of that precinct, and that large numbers voted against him at that election; and we find that the official returns as certified to the secretary of state from that precinct are correct.

PIPERTON PRECINCT, DISTRICT NO. 10.

The majority report gives the contestant 95 votes at this precinct, as against 37 returned, upon the testimony of J. R. Bradley, who was bolstered in his statements by Riley Baldwin. Bradley testified that he kept the list, which was made Exhibit B in the record, on page 376. That list contains the names of 95 persons who, it is sworn by Bradley, received Republican tickets from him with the name of "Josiah Patterson" thereon, and which were voted by these persons. A comparison of that list with the poll list, which appears on page 431 of the record, discloses the fact that there are more than 15 names upon the Witness Bradley's list, who not only did not vote for contestant, but did not vote at all. There are probably more, which fact would be developed by a further comparison of the list, but the comparisons made are sufficient for our purpose.

The majority insist that it was incumbent upon the contestee to have introduced as witnesses in his behalf, all or some portion of the 104 persons whose names appear upon the list made out in these two precincts by contestant's employees. We are unwilling to admit this to be the correct doctrine. The burden of proof rested, in the first instance on the contestant, as in other cases where allegations are made by the contestant in his notice, and it was incumbent upon him to make out a prima facie case in accordance with his allegations.

In these two precincts the only evidence material to the issue which was introduced by contestant was the lists alleged to have been kept by his partisans at the respective boxes, and testified to in the record, and the poll lists put into the record by his witness Gentry as exhibits. In point of fact, these two lists taken together and compared with each other are self-contradictory, and fail to make out the prima facie case which would shift the burden upon the contestee. The burden, therefore, was upon the contestant to corroborate the lists made by Bradley and by McFarland, and to show by the voters themselves that in point of fact they did vote, and that they voted for contestant. Nothing short of this testimony would have shifted the burden of proof upon the contestee, who pleads in contradiction of any such allegations the official returns. It is a well-known doctrine that the official returns are not to be discredited upon impeached testimony. The contestant impeached his own witnesses, Bradley and McFarland, by failing to introduce Taylor to corroborate McFarland, and by introducing, as well, the poll list which contradicts his (McFarland's) list. The same is true of Rossville precinct.

We therefore conclude that the vote as returned in these two precincts should stand, namely:

	Carmack.	Patterson.
Rossville precinct	109	39
Piperton precinct.....	212	35

MACON PRECINCT, DISTRICT NO. 11.

The official returns from this precinct, as certified to the secretary of state, were:

Carmack	196
Patterson.....	44

The majority report excludes these returns from the count and allows 115 for Carmack and 103 for Patterson. They reach this result by a process of reasoning, and by reliance upon testimony which, we undertake to say, has never been, in the whole course of Congressional procedure, regarded as sufficient for the impeachment of a return, and is confessedly of the weakest possible character. They rely upon the testimony of J. J. Clay and A. D. Boswell. Clay was directly and, by legal methods, successfully impeached, and no effort was made to sustain his character by the contestant in rebuttal.

We undertake to say that no judgment would ever be rendered by any court upon the testimony of a witness so thoroughly impeached as was Mr. Clay. His character was utterly destroyed, and a reading of the record will satisfy any unprejudiced mind that nothing could be predicated upon his testimony. The other witness relied upon by the majority to sustain their conclusions with regard to this precinct is A. D. Boswell, a white man, and an alleged supporter of contestee, who was employed, as he alleges, and was used for the purpose of taking down names as Clay called them out. It is shown in his own testimony that he was intoxicated throughout the day, and that he was intoxicated when upon the witness stand. He testified that "about 50" colored Republicans voted for Patterson that day. The official returns give 44 votes as having been cast and counted, but Boswell admitted that he put the names down as Clay called them off, and in answer to the question, "Do you know how the 96 negroes whose names you have down there voted?" he answered: "They brought them up there open; Clay called them out; I don't suppose he would call them out wrong."

A comparison of the Boswell list, as it originally existed, with 76 names thereon, with the poll lists set out in the record, shows that 24 of the names appearing upon Boswell's list did not appear upon the poll list, and therefore they are persons who did not vote, so that the impeached testimony of Clay and the impeached list made up by Boswell, and Boswell's own testimony, taken together, destroy the entire fabric of the claims of contestant as regards this precinct, and yet it is upon such testimony as this that you are asked to reject the returns from Macon precinct, district No. 11.

We can not consent to such a miscarriage of justice, and we insist there is no testimony in the record entitled to any credence which in the slightest degree impairs the prima facie of the official returns. They must, therefore, stand as certified.

TIPTON COUNTY.

MASON DISTRICT, NO. 9.

The majority report admits that the contestant has failed to make out a case justifying any change in the official returns from that precinct. It was certified as 90 for Carmack and 15 for Patterson.

DISTRICT NO. 10, MASON.

In this precinct the vote returned was, Carmack, 212; Patterson, 41; West, 1; total, 254.

The majority recommend that the returns from this precinct be rejected on the ground of fraudulent conduct of the election by contestee's friends, and the further ground that the votes received by the contestant were not counted for him.

We can not agree to this conclusion, and find that there were no frauds committed by the election officers, either in the formation of the board, the conduct of the election, or the ascertainment and certification of the result. The excitement and disturbance which led the officers of the election to refuse to admit a crowd of the rioters to the room where the vote was being counted was created by Patterson's partisans, as is fully detailed in the testimony and cross-examination of J. P. Faulk, one of contestant's partisans and witnesses, on pages 795 to 803, inclusive.

The testimony relied on by the majority report to sustain the finding that Patterson received 204 votes and Carmack 49, instead of those certified and returned for them, is not worthy of serious consideration for one moment. No list of names was kept by them or by any other persons at or near the polls, making them a part of the "*res gestæ*," but one of the witnesses says he kept a "tally list"—that is, made a mark on a piece of paper as each man voted; but he gives no names of such voters, and none of the witnesses are able to swear that any single particular man did vote for Patterson.

We submit that such a dangerous precedent has never yet been set by the House of Representatives, and should never be, as to accept such incompetent evidence to impeach returns of a precinct. We contend that, taking away the usual post-election criminations and recriminations, suspicions and misconceptions, and regarding, as we ought, only the material facts proven, it must be admitted by all impartial minds that contestant has failed, upon his own showing, to make out even a *prima facie* case against these returns.

The contestee has sustained the truth of these returns by abundant testimony. The election officers, each one, testify with specificness to all that occurred in and about the voting places that day. They are men of high character, shown in the record to be such, and incapable of any fraudulent conduct in election matters or in any other public duty. It is also most clearly shown, by uncontradicted testimony, that as colored voters came in to vote they would throw down the tickets they brought in with them and take up instead straight Democratic tickets—this while their poll-tax receipts were being examined—and they afterwards voted such tickets. One witness saw 48 voters make such exchange of tickets and marked them with tallies as they did so. His memorandum is shown as an exhibit on page 1229 of the record.

The two Boyds, G. A. and John W., influential and respected colored men, testify that on account of contestant's record concerning colored people he was heartily loathed and despised by the colored people in that part of Tipton County, and that the only reason any colored Republican voter cast his vote for Patterson was that his name was printed upon the Republican ticket, and because of the fear that the erasure of his name therefrom would invalidate their ballot for McKinley and Hobart.

Moreover, the Mason precincts seem to have been those in which the colored people have largely voted with the Democrats. We might cite the testimony of a large number of witnesses to this effect—that of the two Boyds, *supra*; that of Hunt, page 1111, and that of A. Lane, page 1109, of the record, will suffice.

We, therefore, hold that the returns of Mason district, No. 10, have not been successfully impeached and must stand as certified.

CONSPIRACY.

Manifestly, if there is any force whatever in the claim of "conspiracy" it is that the alleged conspiracy operated against the contestant individually. So far from this being true, the face of the returns shows that contestant received 613 more votes than the Republican electors, and that contestee's majority was only 365 as returned, whereas the admittedly lawful and actual Democratic majority in the district is over 2,000. Moreover, it is charged that the alleged conspiracy had its chief operation in Fayette County, whereas it is shown by the record that in this county contestant received and had returned for him majorities at five of the election precincts. These returns absolutely destroy all possibility that there was any conspiracy by showing that it did not exist in that portion of the county at least. There is, in our opinion, absolutely no foundation in fact for the claim of the contestant that a conspiracy existed having for its object his defeat by fraudulent methods.

COUNTER CHARGES OF CONTESTEE.

TABERNACLE.

In Tipton County the judges of election were appointed by the county court for every voting place. J. E. Bell was the deputy sheriff duly appointed to hold the election at Tabernacle. The testimony shows that Sheriff Bell was at Dr. Hunter's office before 9 o'clock, and that this was the regular place for holding the election at Tabernacle. (See testimony W. A. Cotton, Sup., 217.)

It further appears that at 9 o'clock, the legal hour for opening the polls, the judges appointed to hold the election at this place did not appear, and thereupon the sheriff appointed judges according to the statute.

It further appears that about 9.15 o'clock two of the judges appointed by the county court appeared, but did not offer to take their seats and hold the election there, but attempted to take the ballot box from the sheriff and carry it to another place, where they said they intended to hold the election. They seized the box and attempted to take it by force, but the sheriff resisted and their effort failed. According to the testimony of J. B. Buffin (Sup., 236), they were invited to take their seats, but they declined. They demanded to have the box opened to let them see whether it had been already stuffed with ballots; it was opened and there was but one ballot in the box, which had been voted just before they came in.

One of the clerks appointed by the court, upon the invitation of those present, took his seat to act as clerk, but the two judges, friends of the contestant, went away and the clerk followed them, and they opened what was clearly an outside poll at Mrs. Ross's store.

There is no claim here that the regular sheriff refused to open the polls. They were promptly opened by the legal sheriff at the legal time and in the legal place. The outside poll was opened afterwards by an illegally substituted sheriff and at an illegal place, and the 176 votes

illegally returned as having been cast for contestant at this outside poll must be deducted from his vote.

We will now only notice one other of the counter charges, and that is the poll tax question:

The evidence discloses the fact that about 3,000 persons voted in this Congressional district who had never paid the poll tax assessed against them, which was necessary before they could be legal voters under the laws of the State of Tennessee. This tax was paid by Mr. Dutro and others, at his instance, without their previous authority or knowledge.

Now, we fully recognize the doctrine that one's poll tax may be legally paid by another, provided the voter shall properly ratify the act afterwards, but we do not think the mere taking of the receipt and voting on the same is such a ratification as the law contemplates. We think that the better and sounder doctrine is, that the voter should not only accept the receipt, but he should recognize the act the more substantial way, by repaying or promising to repay the amount; and it was so held by the supreme court of Massachusetts in the case of *Humphreys v. Kingman* (5 Metcalf, 162), and courts of other States have more recently announced the same rule.

The evidence also discloses the further fact that a great many of these poll-tax receipts were issued in blank, and were delivered to the friends and agents of the contestant, who carried them to the polls on the day of the election and issued them out to those persons who would agree to vote the Republican ticket, and especially for the contestant.

Mr. John S. Randall, the secretary of the Republican committee, and who seemed to have the management of the securing of these tax receipts, frankly admits that he would not have given them out to persons who intended to vote the Democratic ticket. Now, if these tickets were furnished the voter in consideration for his vote in return, then it was bribery, pure and simple, and of the worst and meanest kind; and if their exact number could be ascertained they should be rejected as illegal votes. (See 23 Wis., p. 327; 36 Wis., p. 218; 93 Ky., p. 153; 2 Bart., p. 594.)

That a great many of them were given out in this manner is sufficiently shown from the evidence. It also appears that at the time these poll-tax receipts were issued there was an agreement and understanding made with the officer issuing them, that all those not used could be returned and pay would only be exacted for such as were not returned; and many of them, in fact, were returned.

This practice does not meet with our approval. The laws of the State make the poll tax a charge and burden against the voter, and it is not a tax against a campaign committee or a certain candidate, and neither of them should be permitted to use them for the purpose of bribing voters.

It is held in 12 Phil., page 626, that where a poll tax is paid by an agent of another, not previously authorized to do so, credit must be given to the individual for whom payment is made by the collector at the time of receiving the money; otherwise there was no valid payment of the poll tax. No such credit was given in this case, nor was such a thing ever contended for. But, upon the contrary, the proof shows that at least \$150 of this poll-tax money was not paid until some eighteen days after the election. This being so, there can be no question but what 75 of these votes were illegal and, as the testimony shows, they were cast for the contestant. We think that this number should be deducted from his vote.

In conclusion, we think the vote should be corrected as follows:

	Carmack.	Patterson.
Official returns.....	10, 851	10, 486
Tabernacle.....		Deduct 176
Illegal poll tax.....		75
Braden	Deduct 13	Add 10, 235
		13
Majority.....	10, 838 590	10, 248

The undersigned, therefore, present the following resolutions as a substitute for the resolutions offered by the majority of the committee, and recommend their adoption by the House of Representatives:

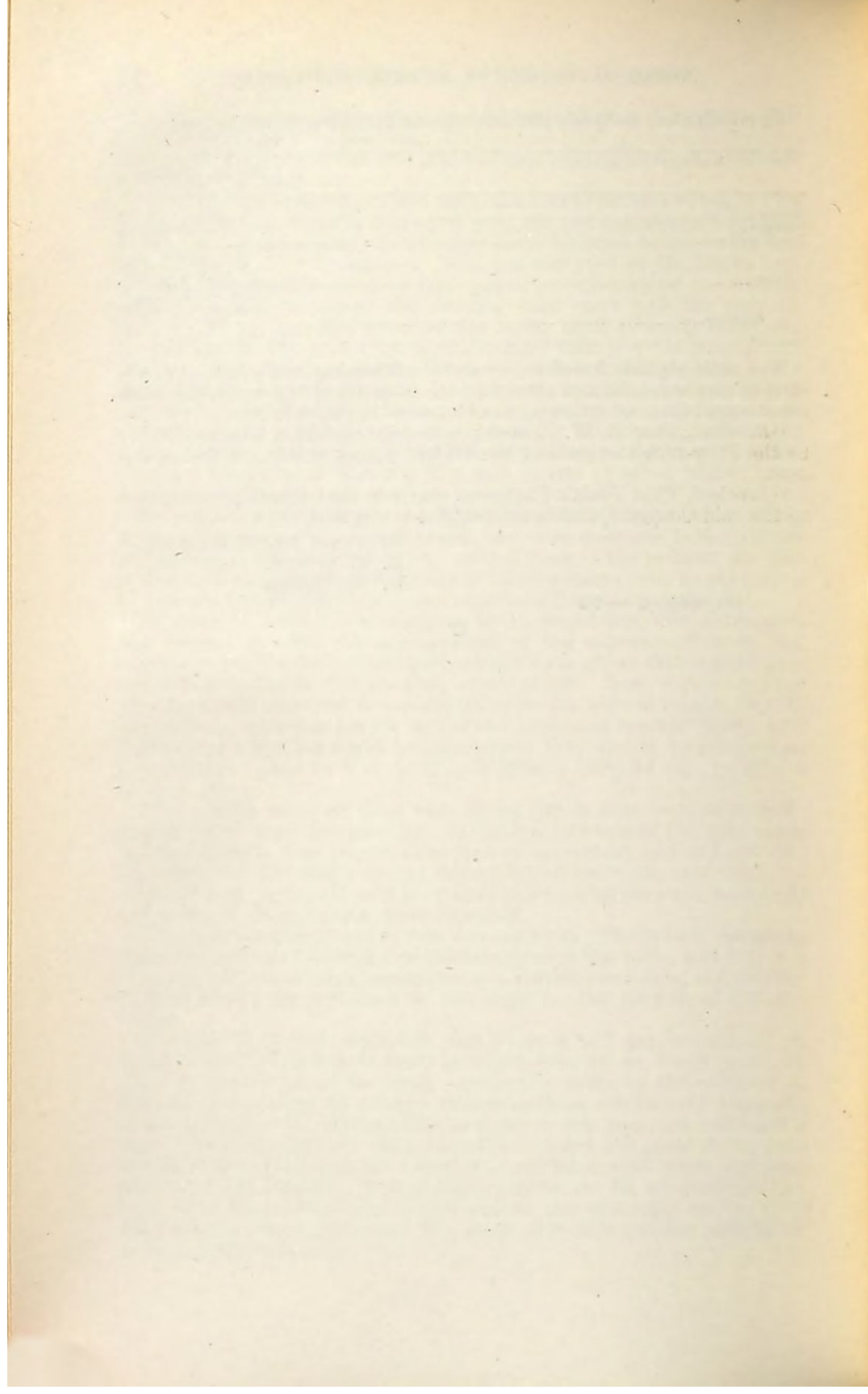
“*Resolved*, That E. W. Carmack was duly elected a Representative to the Fifty-fifth Congress of the United States, and is entitled to the seat.

“*Resolved*, That Josiah Patterson was not elected a Representative to the said Congress, and is not entitled to the seat.”

STEPHEN BRUNDIDGE, Jr.
R. E. BURKE.
R. W. MIERS.

II. Rep. 4—13

○



EMILY A. HAUSNER.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7802.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7802) granting a pension to Emily A. Hausner, have examined the same and the evidence and respectfully report:

This bill proposes to pension at \$12 per month Emily A. Hausner, of Ithaca, N. Y., as widow of Charles W. Hausner.

Charles W. Hausner enlisted in Company E, Sixty fourth Regiment New York Volunteer Infantry, on the 10th day of September, 1861, and was honorably discharged December 6, 1862, on account of permanent disability caused by gunshot wound in the neck and another through the thigh, both received in the battle of Fair Oaks, Virginia, June 1, 1862. He was struck by three other bullets in the same battle, one in the head, one in the breast, and the other in the left arm.

The gunshot through the thigh cut the cords and muscles and made the leg permanently stiff and lame, and pain at that point was frequent. The ball through the neck entered on a line with the angle of the jaw on the one side, passed through, striking the spinous process and grazing the spinal column at the fourth cervical vertebra, and made its exit on the other side about opposite. The soldier was completely paralyzed at the time, gradually recovered motion, but was always a sufferer from severe pains in the neck, stiffness, pains in the head, and dizziness of such a degree that he could not stand in elevated places.

The eyesight was also seriously affected, especially when the head was bent over; neck tender and numb; cicatrices depressed, hard, and adherent. He was first pensioned at \$15 per month, and these symptoms were always found and described by examining boards, four or five, on examinations made at different dates and places. The power to move the neck was much impaired.

The soldier died December 18, 1892, from what the attending physician, Dr. D. White, stated to be "cerebral apoplexy," but in his affi-

davit as to cause of death, made January 14, 1893, he said "that he has often been called to treat said Charles W. Hausner for disabilities caused by reason of a gunshot wound in the neck, and that the said Charles W. Hausner's death was superinduced by reason of said gunshot wound."

In a subsequent affidavit, when called on to be more specific, he says:

I knew him well for thirty years, and he always complained of pain in his neck after being wounded. The ball had passed through the neck over the second cervical vertebra, which must have been injured at the time the wound was inflicted. The scars on either side of the neck were much sunken, and seriously interfered with the venous return of blood from the brain, and I have no doubt but this was the cause of his fatal illness.

Many reputable witnesses testify to his condition, as hereinbefore described, as to pain, dizziness, etc., of the head, from the date of his wounds to the day of his death.

Dr. White is one of the most able and experienced physicians in New York State, and his skill is beyond question, as is his character.

The widow's claim has been recently rejected on the ground that the apoplexy was not and could not have been superinduced by the wound in the neck and its results.

The soldier was not addicted to any bad habits; he was in all respects temperate and led a correct life, and was compelled to subsist on plain food.

Effusion of blood into the brain will and must cause apoplexy. "Apoplexy denotes a comatose condition, resulting from pressure on the brain from any cause tending to produce cerebral congestion such as a degeneration of nervous and vascular structures."

This soldier suffered a wound and injury to the spinal column at the base of the brain and which affected the nerve centers and caused a degeneration and diseased condition of the nervous structures, and which naturally in its progress caused apoplexy.

This physician, who knew the soldier for thirty years, who attended him on his deathbed, who is skilled and disinterested, knows what caused his death, and when we have his condition as described by the records of the War Department and several boards of examining surgeons, all showing a diseased condition and degeneration of the nervous structures which produces apoplexy, we can not escape the conclusion that this soldier died from the results of wounds received in the service.

His widow, who is poor, is entitled to the pension the general law allows her under this evidence.

The bill is therefore reported back favorably with the recommendation that it pass.

SIDNEY J. HARE.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5776.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5776) granting an increase of pension to Sidney J. Hare, have examined the same and the evidence relating to same and respectfully report:

This bill, as amended, proposes to increase from \$12 to \$24 per month the pension of Sidney J. Hare, of Alexandria, Va.

This soldier served as private in Company C, Ninety-sixth Regiment New York Volunteer Infantry, from January 9, 1862, to July 29, 1862, when he was discharged on surgeon's certificate of disability; in Company H, Second New York Veteran Cavalry, from September 8, 1863, to October 25, 1865, when he was honorably discharged. He was absent sick April 30, 1862, at Newport News; absent sick at Youngs Mills April 27, 1862; absent sick June 30, 1862, and in hospital at Philadelphia, Pa. He alleges injury to back while serving in Company C, Ninety-sixth New York Volunteer Infantry. The records of the hospital and Army fail to disclose the nature of such sickness.

Sidney J. Hare served in Company D, Fifteenth Regiment United States Infantry, from July 25, 1867, to July 24, 1870, when he was discharged by reason of expiration of service. He was sick in quarters October 31 and December 31, 1867. June 30, 1869, he was sick in quarters.

This soldier is now substantially helpless and is very poor. Enough of his present disabilities are of service origin to justify this committee in increasing his pension to \$24 per month, but not more. His paralysis is not due to his army service. He has a wife who cares for him and he receives aid from his Grand Army friends.

After a careful examination of the evidence and consideration of all the circumstances, your committee recommends a substantial increase, and reports the bill back with the recommendation that it pass when amended as follows:

In line 6, after the words "rate of," insert the word "twenty-four."
Strike out all after the word "receiving," in line 8.

Amend the title so as to read: "A bill granting an increase of pension to Sidney J. Hare."

On the 9th day of January, 1862, I enlisted in Company C, Ninety-sixth New York Volunteer Infantry, to serve three years or during the war. On the 4th day of May, 1862, in front of Yorktown, I was badly hurt while building a road to get wagons over. I was then sent to Philadelphia, Pa., hospital, and on July 26, 1862, was discharged as incurable, and with good care and doctors recovered so that I could join the Second New York Volunteer Cavalry on the 8th day of September, 1863, and was mustered out the 25th day of October, 1865.

SIDNEY J. HARE.

On the 5th day of July, 1867, I enlisted in Company D, United States Infantry, to serve three years. Was discharged July 24, 1870, by reason of expiration of service. I reenlisted August 5, 1870, to serve five years, and was discharged August 4, 1875. I then went to work for the quartermaster until the 15th day of June, 1881, and on that day I enlisted in the Fifteenth Infantry to serve five years, and was transferred to Company I, Twenty-second Infantry, and served until discharged the 23d day of July, 1883, by reason of order from War Department, and I am now totally helpless. I can not walk, and have been struck with paralysis since 1888. I have nothing to live on, and I therefore ask relief to procure the necessaries of life. In 1889 I made application for a pension, and in October, 1897, was disallowed, and I am destitute. Number of claim, 552072.

SIDNEY J. HARE.

To whom it may concern:

The bearer of this, Sidney J. Hare, late a soldier of Company D, Fifteenth Infantry, served under my immediate command for about eight years. While so serving I found him always honest, faithful, and industrious, a man of good habits, and trustworthy in any position that he was competent to fill. In his service I had two occasions to place more confidence in him than is usually given to enlisted men. In Texas I gave him money, a fine horse, and equipments to go and recover a horse that had been stolen from me. He recovered my stolen property, displaying a good deal of tact and shrewdness in so doing, and that my confidence had not been misplaced. In New Mexico I sent him to New York on business for me, and intrusting him with what was to me a large sum of money. He accomplished his mission and proved himself worthy of my confidence. He informs me that he is desirous of procuring the position of watchman or messenger; for either of these I think that he would be valuable to whoever employs him. I have stated these special instances of where I placed confidence in his ability and integrity in order that whoever sees this recommendation may know that his reputation is not based altogether on the honest, faithful service of a soldier.

HORACE JEWET,
Major Sixteenth Infantry.

To whom it may concern:

The bearer of this, S. J. Hare, has been in the employ of the quartermaster at this office, under my direction, since November 13 last, during which time I have found him a sober, steady, reliable man.

Very respectfully,

J. G. C. LEE,
Major and Quartermaster, U. S. A., Chief Quartermaster.

During the time I was on duty at Santa Fe, N. Mex., as chief quartermaster district of New Mexico, nearly two years, S. J. Hare was employed as messenger in my office. I found him attentive to his duties and perfectly trustworthy.

He understands the proper care of animals and was considered by General Hatch to be one of the best drivers in the district.

J. J. DANA,
*Deputy Quartermaster-General, U. S. A.,
Chief Quartermaster, Department of the South.*

STATE OF VIRGINIA, *City of Alexandria, ss:*

In the matter of the claim of Sidney J. Hare.

On this 18th day of December, A. D. 1897, personally appeared before me, a notary public in and for the aforesaid city, duly authorized to administer oaths, William T. Gary, aged 65 years, a resident of Del Ray, in the county of Alexandria and State

of Virginia, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

I have known Sidney J. Hare for some time, and know that he has not the use of his limbs and is totally disabled; his wife takes care of him, and he is suffering for the necessities of life, only what help he gets from neighbors and friends; I am a Confederate soldier and know that I have helped him many times, and I trust he will get some aid from the right source. His post-office address is Del Ray, Alexandria County, Va.; and further declare that I have no interest in said case and am not concerned in its prosecution.

WILLIAM T. GARY.

STATE OF VIRGINIA, *City of Alexandria, ss:*

Sworn to and subscribed before me this 18th day of December, A. D. 1897, by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same." I further certify that I am in no wise interested in said case nor am I concerned in its prosecution, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

NEVELL S. GREENAWAY, *Notary Public.*

STATE OF VIRGINIA, *City of Alexandria, ss:*

In the matter of the claim of Sidney J. Hare.

On this 18th day of December, A. D. 1897, personally appeared before me, a notary public in and for the aforesaid city, duly authorized to administer oaths, Henry Fetter, aged 64 years, a resident of Del Ray, in the county of Alexandria and State of Virginia, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

I have known Sidney J. Hare for some time and know that he is perfectly helpless, not having the use of his limbs, and requires a constant attendant; his wife takes care of him. I also know that he is in destitute circumstances, for my family, as well as many others in this place, have helped him. His post-office address is Del Ray, Alexandria County, Va.; and further declare that I have no interest in said case and am not concerned in its prosecution.

HENRY FETTER.

STATE OF VIRGINIA, *City of Alexandria, ss:*

Sworn to and subscribed before me this 18th day of December, A. D. 1897, by the above named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in no wise interested in said case nor am I concerned in its prosecution, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

NEVELL S. GREENAWAY, *Notary Public.*

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioner respectfully represents that he is a citizen of the United States and a resident of the town of Del Ray, in the State of Virginia.

On the 9th day of January, 1862, I enlisted in the military service of the United States in Company C, Ninety-sixth Regiment of New York Volunteers, for the term of three years or during the war; that on the 4th day of May of the same year, while engaged in the construction of a wagon road, I was badly hurt and sent to a hospital in Philadelphia, Pa., from where I was discharged July 26, 1862, as incurable, but with good care and attention I recovered sufficiently to join the Second New York Cavalry on the 8th day of September, 1863, and was mustered out of the service October 25, 1865.

On the 5th day of July, 1869, I again entered the military service in Company D, United States Infantry, for the term of three years, and was discharged therefrom July 24, 1870, by reason of expiration of term of service. Enlisted again August 4, 1870, after which time I was employed in the Quartermaster's Department and served in that capacity until the 15th day of June, 1881, when I again enlisted in the military service in the Fifteenth United States Infantry, and was discharged from this service the 23d day of July, 1883, by order from the War Department.

Your petitioner further says that in consequence of his long and continued army service and the many exposures to which he was necessarily subjected he is broken down in health. That in 1888 he was stricken with paralysis, from which he has never recovered, and is now permanently and totally disabled to such an extent that he is entirely helpless and requires constant aid and attention of a nurse.

That in 1889 he made application for a pension, number of claim being 552079, under the general laws, which was rejected October, 1879, for the reason that he could not show that his present disability dated back to his army service, or that it was the result of the same; that he subsequently applied for and is receiving a pension of \$12 per month under the act of Congress of June 27, 1890, which is scarcely sufficient to pay the rent of a very small house and obtain the medicines necessary in his present condition, without the slightest hope of an improvement in health hereafter, in his helpless condition and without means of support.

That there is no remedy under the existing laws by which he can obtain an increase of pension. He earnestly requests that your honorable body will, by a special act, grant him a pension in lieu of the present amount he is now receiving sufficient to obtain the necessities of life, and any other and further relief that may seem just and proper.

Respectfully submitted.

SIDNEY J. HARE.

O

ADOLPHINE KREZ.

MARCH 31, 1898.—Committed to the Committee on the Whole House and ordered to be printed.

Mr. NORTON, of Ohio, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1467.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1467) proposing to pension Adolphine Krez, have examined the same and the evidence relating thereto and respectfully report:

The Senate bill proposes to pension, at \$30 per month, Adolphine Krez, of Milwaukee, Wis. This claimant is the widow of Conrad Krez, who enlisted August 21, 1862, as private, Twenty-seventh Wisconsin Volunteer Infantry. He was commissioned colonel September 2, 1862, and later was assigned to the command of the Third Brigade, Third Division, Thirteenth Army Corps, and remained in command of this brigade until June 14, 1865, when he resumed command of his regiment, and was mustered out August 29, 1865. He was brevetted brigadier-general United States Volunteers for faithful and meritorious services in the Army. He took part in the siege of Vicksburg and many other battles and engagements. It is apparent that he was a brave, faithful, and efficient officer. At his death, which can not satisfactorily be shown to be due to service, he left his widow, Adolphine Krez, now over 60 years of age. She is sickly and under the doctor's care. She has the use of the house in which she lives, and the use of other property which brings her about \$12 per month. Aside from this she is entirely dependent upon two unmarried daughters.

In view of the necessitous circumstances of this widow, her sickly and dependent condition, the rank, and long and meritorious service of her husband, your committee concur in the Senate bill and report the same back favorably. Could it be shown that her husband died of disease contracted or wounds received in the service she would be entitled to \$30 per month from the Government, and as the soldier was brevetted brigadier-general your committee treat his widow, who was his wife during the war, the same as we treat the widows of other general officers under the same circumstances.

The Senate bill is reported back with the recommendation that it pass when amended as follows:

In line 8, after the word "pension," insert "at the rate of."

Amend the title so it will read: "An act granting a pension to Adolphine Krez."

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GEORGE W. OSBORN.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4961.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4961) granting an increase of pension to George W. Osborn, have examined the same and all the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$12 to \$24 per month the pension of George W. Osborn, of Mattoon, Ill.

This soldier served from September 12, 1861, to September 19, 1864, when he was honorably discharged.

He is poor, unable to perform any manual labor, and has a wife and two children dependent on him, and who are unable to contribute to his support. He is suffering from chronic diarrhea and piles of service origin, and is about 55 years of age. He is also suffering from a serious nervous disease, resembling chorea or St. Vitus's dance, which the medical evidence shows to be hereditary but not due to vicious habits.

The case appeals strongly to your committee. He has a \$30 disability, which, if of service origin, would entitle him to that sum. As it is in view of his poverty and physical condition and long service, your committee is of opinion that an increase to \$24 per month is fully justified.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 8 strike out the words "of fifty" and insert in lieu thereof the words "at the rate of twenty-four."

Amend the title so as to read: "A bill granting an increase of pension to George W. Osborn."

STATE OF ILLINOIS, *County of Moultrie, ss:*

In the matter of the claim for special action in the Congress of the United States of George W. Osborn, private, Company C, Fifty-fourth Regiment Ohio Volunteer Infantry.

On this 2d day of February, A. D. 1898, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, J. S. Johnson, aged 42 years, a resident of Coles, in the county of Moultrie and State of

Illinois, whose post-office address is Coles, and N. M. McCormick, aged 39 years, a resident of Coles, in the county of Moultrie and State of Illinois, whose post-office address is Coles, well known to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows:

J. S. Johnson says he has known George W. Osborn for nine years in a business way, seeing him most every week, and knows him to be a sober man and has no bad habits to my knowledge. His affliction is such that he is unable to do any manual labor whatever. He has a family, and has no real estate and but little personal property. N. M. McCormick says he has known George W. Osborn for twenty years in a business way and as a neighbor, seeing him often, and knows that he does not use whisky or has any other bad habits. Has no real estate and but little personal property. Is wholly unable to perform any labor. Has a family of two children dependent upon him for support.

They have no interest in said case and are not concerned in its prosecution.

J. S. JOHNSON.

N. M. McCORMICK.

STATE OF ILLINOIS, *County of Moultrie, ss:*

Sworn to and subscribed before me this day by the above-named affiants; and I certify that I read said affidavit to said affiants and acquainted them with its contents before they executed the same. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution, and that said affiants are personally known to me and that they are credible persons.

[SEAL.]

J. W. WEIS, *Notary Public.*

STATE OF ILLINOIS, *County of Moultrie, ss:*

In the matter of the claim for special action in Congress of the United States of George W. Osborn, private, Company C, Fifty-fourth Ohio Volunteer Infantry.

On this 2d day of February, A. D. 1898, personally appeared before me, J. W. Weis, notary public in and for the aforesaid county, duly authorized to administer oaths, Wm. M. Mark, aged 35 years, a resident of East Nelson township, in the county of Moultrie and State of Illinois, whose post-office address is Coles; H. C. Monson, aged 40 years, a resident of Whitley township, in the county of Moultrie and State of Illinois, whose post-office address is Coles, well known to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows:

That he has known George W. Osborn for fourteen years—a great portion of the time as a near neighbor—and know that he does not use intoxicants in any shape. He can not do any work of any kind; he has no real estate and very little personal property; has a wife and two children to support. H. C. Monson says he has known George W. Osborn for twenty years—a good portion of the time as a near neighbor—and says he has not and does not use whisky or has not any other bad habits; has no real estate and but little personal property; has a wife and two children depending upon his support, and is wholly unable to do any kind of work.

They have no interest in said case and are not concerned in its prosecution.

W. M. MARK.

H. C. MONSON.

STATE OF ILLINOIS, *County of Moultrie, ss:*

Sworn to and subscribed before me this day by the above-named affiants, and I certify that I read said affidavit to said affiants and acquainted them with its contents before they executed the same. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution, and that said affiants are personally known to me and that they are credible persons.

[SEAL.]

J. W. WEIS, *Notary Public.*

STATE OF ILLINOIS, *County of Moultrie, ss:*

In the matter of the claim for pension now pending before the Congress of the United States of George W. Osborn, private, Company C, Fifty-fourth Ohio Volunteer Infantry.

On this 3d day of February, A. D. 1898, personally appeared before me, J. W. Weis, a notary public in and for the aforesaid county, duly authorized to administer oaths, S. P. Lilly, aged 62 years, a resident of East Nelson township, in the county of Moultrie and State of Illinois, whose post-office address is Allenville, Moultrie County, Ill.; Charles H. Barr, aged 42 years, a resident of Mattoon township, in the county of Coles and State of Illinois, whose post-office address is Coles, Moultrie County, Ill., well known to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows:

S. P. Lilly says he has known George W. Osborn for twenty or twenty-one years,

as a near neighbor for past ten years; and he knows that he does not or to his knowledge ever used any intoxicants in any form; that he has no real estate and a very small amount of personal property, and his affliction is such that it wholly incapacitates him for any manual labor; that he has a wife and two children depending upon him; his moral character is above reproach. Charles Barr says that he has known George W. Osborn for twelve or fourteen years as a neighbor and in a business way. He also says that he has no bad habits and is strictly moral; that he has no real estate and only a small amount of personal property; that he has a wife and two children to support.

They further declare that they have no interest in said case and are not concerned in its prosecution.

S. P. LILLY.
CHAS. H. BARR.

STATE OF ILLINOIS, *County of Moultrie, ss:*

Sworn to and subscribed before me this day by the above-named affiants, and I certify that I read said affidavit to said affiants, including the words erased, and acquainted them with its contents before they executed the same. I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution; and that said affiants are personally known to me and that they are credible persons.

[SEAL.]

J. W. WEIS, *Notary Public.*

STATE OF ILLINOIS, *County of Coles, ss:*

In the pension claim (No. 569622) of George W. Osborn, late Company C, Fifty-fourth Ohio Volunteer Infantry.

Personally came before me, a notary public in and for the aforesaid county and State, A. G. Pickett, whose post-office address is Mattoon, Ill., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and has been acquainted with the above-named soldier for about twenty-six or twenty-eight years, and ever since that, to the best of his remembrance, claimant has been subjected to a greater or less degree to chorea. As time has passed the disease has become aggravated, until all of the muscles, and through them every part, is in involuntary and constant movement. In conversation articulation is so imperfect that it is with great difficulty that he can be understood. The contortions of features and body are terrible to look upon. As he walks he presents a singular appearance; he can not move in a straight line; he is much emaciated; skin dry; muscles small, soft, and flabby; tongue covered with a brownish coat, dry, and fissured; stomach somewhat full, gassy, and tender upon pressure; liver torpid, but there is no enlargement or sclerosis. He states that he has an attack of diarrhea on an average of once a month; will have ten or twelve stools daily when at his worst; stools watery, sometimes like soapsuds, at first large, but gradually becoming smaller and painful; when there is no diarrhea the bowels are very constipated; rectal membrane irritable, with slight exhibition of piles. He states that latterly he has not been troubled much with piles; at times has attacks of rheumatism, during which the joints swell. At this examination the right wrist is considerably swollen. At times has palpitation of heart; any excitement or exercise will produce it; heart is irritable, its beat tumultuous and rapid; respirations at rest, 24. The mental as well as the physical powers are much enfeebled, and he is neither capable of transacting business or of performing manual labor in any degree whatever; he requires the frequent but not constant attendance of another person. He has no means of supporting himself and family except the small pension he receives. Claimant's disabilities were not caused by vicious habits. Claimant is unable to prove that he incurred his disabilities in the service.

He further declares that he has been a practitioner of medicine for fifty years, and that he has no interest, either direct or indirect, in the claim to which this affidavit is supplementary, and is not engaged in its prosecution.

A. G. PICKETT, M. D.,
Late Assistant Surgeon Fiftieth Illinois Infantry.

Sworn to and subscribed before me this 14th day of February, A. D. 1898; and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the foregoing affidavit were fully made known to him before its execution, including the words "ever since," added; that I have no interest, direct or indirect, in this claim, and am not engaged in its prosecution.

[SEAL.]

J. WITHINGTON, *Notary Public.*

STATE OF ILLINOIS, *County of Coles*, ss:

In the pension claim of George W. Osborn, late private of Company C, Fifty-fourth Regiment Ohio Volunteer Infantry.

Personally came before me, a notary public in and for the aforesaid county and State, F. M. Beals, M. D., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and has been acquainted with the above-named soldier for about twenty years, and that applicant has lived during these twenty years from 3 to 8 miles from my place of residence, and I have known him well, though was not his physician; noticed some six or eight years ago that he was afflicted with chorea, and have observed that this disease grew worse, till now it is the most chronic case that I know, and I have seen not a few. I might add this is the most distressing case that I ever saw; "insanity of the muscles" is appropriate. In the face the eyebrows are alternately contracted and separated, the forehead wrinkled and smoothed, the eyelids rapidly winked, and now and then are fast closed for a moment. The eyes roll hither and thither; the mouth is successively pursed up, closed, then suddenly opened and shut, and the tongue is suddenly thrust forward and drawn back. The head is turned, now forward, now backward, now sideways. The shoulders are raised and sunken. The upper extremities are flourished about. In the elbows, hands, and finger joints, flexion and extension, pronation and supination, abduction and adduction, alternate with one another. There are similar movements in the lower extremities. The muscles of the trunk are also affected; the spinal column is inclined either forward, backward, or sideways, sometimes in one direction and sometimes in another.

When the applicant lies down he is tossed upward, and if in bed would be tossed toward the foot of the bed or out of it. Nearly all the motions of the body are embarrassed by this restlessness of the muscles. Articulation is rather indistinct, as the intentional movements of the mouth and tongue are accompanied by others which are unintentional. In eating, the fork misses his mouth or lips; in drinking the beverage is spilt, so that he has to be fed much of the time. The functions of the several viscera are affected. There is an increased action of the heart. Respiration is hurried, 24 to the minute; the stomach does not digest well; the bowels very irregular; is either constipated or there are too frequent stools. The skin is dry, soft, and flabby. Tongue dry and fissured. There is a general emaciation and debilitation, and the applicant is so disabled as to incapacitate for performing any manual labor, and he requires frequent and periodical, though not regular, constant personal aid and attendance of another person. He has no means of support save that of his pension, and, I might add, his condition is not due to vicious habits.

He further declares that he has been a practitioner of medicine for nineteen years, and that he has no interest, either direct or indirect, in the claim to which the affidavit is supplementary, and is not engaged in its prosecution.

F. M. BEALS, M. D.

Sworn to and subscribed before me this 1st day of February, A. D. 1898, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the foregoing affidavit were fully made known to him before its execution.

I have no interest, direct or indirect, in this claim, and am not engaged in its prosecution.

[SEAL.]

J. WITHINGTON, *Notary Public*.

JAMES W. McMILLAN.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 157.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 157) proposing to increase the pension of Gen. James W. McMillan, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$30 to \$50 per month the pension of James W. McMillan, now of the city of Washington, D. C., late a brevet major-general, United States Volunteers.

A similar bill passed the Senate in the Fifty-fourth Congress and was reported favorably by the House. James W. McMillan is now 71 years of age and in necessitous circumstances, excepting as to the compensation he is receiving from the Government by reason of his pension and a position he now holds in the Pension Bureau. He served in the Mexican war as sergeant from July 18, 1846, to October 13, 1846, when he was discharged because of disease contracted in the service. He also served in the Mexican war from April 29, 1848, to July 13, 1848, when he was honorably mustered out.

In the civil war he was mustered into the service July 24, 1861, as colonel of the Twenty-first Indiana Volunteer Infantry.

He was wounded in battle, shot through his left hand, through his left arm, and also received a gunshot wound in his right side. As soon as able he returned to duty. June 5, 1863, he was appointed brigadier-general of volunteers, and was commissioned April 4, 1863. He commanded brigades in the Nineteenth Army Corps, First and Third Divisions, and also in the First Division, Department of West Virginia. He took part in many battles and was always on duty, brave and efficient to the time of his resignation, May 5, 1865, after the war was over. March 5, 1865, he was brevetted major-general, United States Volunteers.

He now carries a bullet in his body, received in battle. At the battle of the Opequan, September 19, 1864, he was struck on the head by a

piece of shell, and the scars of this wound he still carries. Notwithstanding this he remained at the head of his brigade until the close of the battle. He was at the head of his brigade at Cedar Creek a month later.

No braver, better, or more efficient officer served in the Army of the Union during the late war of the rebellion. He was a disciplinarian, but always kind to his men, and had their confidence and esteem.

It is unnecessary to say anything further in behalf of this old veteran of two wars, now 71 years of age. He is unable to perform any manual labor, but can do considerable mental work. He is rapidly failing in health and will soon be dependent entirely upon the pension he receives from the Government.

The Senate bill is reported back with the recommendation that it pass.



DELIA GILMAN.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 487.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 487) granting a pension to Delia Gilman, have considered the same and all the evidence and report:

This bill proposes to pension at \$12 per month Delia Gilman, of Wolfboro, N. H.

The facts are stated in the Senate report, which is as follows:

The Committee on Pensions, to whom was referred the bill (S. 487) granting a pension to Delia Gilman, have examined the same and report:

A similar bill passed the Senate during the first session of the Fifty-fourth Congress and was reported favorably by the House. Your committee recommend the passage of the bill, adopting the report to the Fifty-fourth Congress, which report is as follows:

“Alvin Gilman enlisted October 2, 1861, in Company H, Fifth New Hampshire Volunteer Infantry, and was honorably discharged for disability February 13, 1863. He was pensioned for gunshot wound of left thigh, which pension he drew until the date of his death, which occurred in June, 1890. The widow, claimant under this bill, applied for pension, but her claim was rejected, the cause of rejection being, according to the official record, ‘claimant’s declared inability to furnish proof of her first husband’s death.’

“The facts concerning her first husband are that she was married in January, 1852, in Albany, N. Y., to John Johnson, who, in September of the same year, went to Indiana, and during the next month was killed by the explosion of a steam boiler; at any rate claimant was so notified, and in due time a trunk, containing the clothes of her husband, was returned to her at Albany. From that date to this she has heard nothing from her husband, and in April, 1865, she was married to Alvin Gilman. Nobody has ever doubted the death of her former husband, but when the Pension Bureau called upon her for proof of his death thirty-five years after the event she was unable to furnish satisfactory evidence.

“That is all there is in the case, and your committee do not hesitate to express surprise that the Pension Bureau did not accept the presumption of death after so long an absence, and especially in view of the circumstantial evidence that was presented in support of the theory of death.

“The bill is reported back favorably, with a recommendation that it do pass.”

Your committee report the Senate bill, with the recommendation that it pass.



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SARAH BRUMM.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1345.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1345) granting an increase of pension to Sarah Brumm, have examined the same and all the evidence and respectfully report:

This bill proposes to increase from \$8 to \$20 per month the pension of Sarah Brumm, of Boise City, Idaho, as widow of George W. Brumm.

The facts are stated in the Senate report, which is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1345) granting an increase of pension to Sarah Brumm, have examined the same and report:

The claimant is the widow of George W. Brumm, who, according to the records on file in the case, served in the Union Army during the war of the rebellion from April 20, 1861, to July 20, 1865, when he was honorably discharged with the rank of major. He was pensioned for locomotor ataxia at the rate of \$8.50 per month from the date of his discharge, which was increased from time to time, until at the time of his death he was receiving \$24 per month.

His widow, the beneficiary named in the bill, applied for pension under the act of June 27, 1890; also under the general pension laws. The claim was allowed under the former act, and she is now drawing a pension of \$8 per month, and \$2 additional for each of two minor children.

The claim under the general laws was rejected on the ground that the cause of the soldier's death—strangulated hernia—was not the result of the pensioned cause.

The only medical evidence on file in the case relating to the soldier's condition preceding his death is the affidavit of Dr. Jesse K. Dubois, in which he says:

"I knew the deceased, George W. Brumm, during his life, for the period of fourteen years, nearly, and was the medical adviser of said George W. Brumm and his family most of that time.

"I was acquainted further with the fact that said George W. Brumm was afflicted with locomotor ataxia, and had been so afflicted for years before his first introduction to me; that said George W. Brumm was a pensioner and drew a pension for said disease; that said locomotor ataxia was progressive in its character and caused such defective coordination of the muscles as to totally incapacitate him from manual labor, and forced him to abandon his trade—watch making and jeweler; that he had color blindness and limitation of the field of vision; that the sympathetic nervous system participated in the ravages of the disease; the joints became enlarged and other trophic changes occurred, and the pulse became accelerated, and permanently so; the motor difficulties increased, and repeated gastric crises, with vomiting and diarrhea, became frequent, leading to extreme exhaustion; that in addition to,

and as a result of, repeated vomitings, an ancient hernia became strangulated, and was the immediate cause of his death; that in the opinion of the affiant the deceased would have been bedridden from encroaching arthropathies had not the strangulated hernia intervened to shorten life."

While strangulated hernia was the immediate cause of the soldier's death, your committee are of the opinion that this disability was superinduced by the weak, debilitated, and diseased condition of the soldier on account of the disease for which he was pensioned (locomotor ataxia), and that further evidence to establish this fact should be waived.

The claimant has no income but her pension and no means of support, as is shown by evidence on file in the case.

In view of these facts and the technicality upon which the claim was rejected, your committee believe that the bill is meritorious, and therefore recommend its passage with an amendment:

Amend by striking out "fifty" and inserting "twenty."

The bill is reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Volunteers," insert "and pay her a pension."

C

JAMES E. EATON.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 2497.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2497) granting an increase of pension to James E. Eaton, have examined the same and all the evidence and report:

This bill proposes to increase from \$12 to \$24 per month the pension of James E. Eaton, of Stockton, Cal., who served from November 16, 1861, to November 21, 1864, and was honorably discharged.

The records show him to have been treated while in service for remittent fever from May 30 to June 4, 1862; for acute bronchitis from September 15 to 20, 1863, and for diarrhea, with some symptoms of fever, from June 21 to July 2, 1864.

He filed a declaration under the general law March 6, 1888, alleging that at Port Royal, S. C., in July, 1864, he contracted malarial fever, since which he has never been a well man.

In an affidavit filed May 7, 1888, he alleged that in September, 1882, he was attacked with hemorrhages from the lungs, which his physician attributed to his exposure to malaria in service. From this attack he was confined to his bed over three years. While suffering from hemorrhages a fistula developed. The fistula was years in maturing. He suffered no inconvenience from it until operated upon.

In an affidavit filed September 13, 1889, he alleges that it is his belief that his long years of suffering is directly traceable to the malarial poisoning. He also declared that he has been sick at intervals ever since his discharge with head trouble, nausea, and recurrent fever; that on September 23, 1882, he was attacked with hemorrhages, and was confined to his bed over three years.

July 14, 1890, he filed a claim under the act of June 27, 1890, for malarial poisoning, consumption, and fistula in ano. This claim was allowed in January, 1891, and he was pensioned for alleged causes at \$12 per month from July 14, 1890, the date of filing.

In July, 1893, his claim under the general law was adjudicated, and he was pensioned at \$2 per month for malarial poisoning from March 6,

1888, date of filing, to July 13, 1890, when said pension terminated by reason of the commencement of his pension under act of June 27, 1890. At the time of allowance of malarial poisoning under the general law the medical referee said: "No special results; disease of lungs and fistula in ano not accepted as results," which seems perfectly correct.

When examined by the Sacramento, Cal., board February 22, 1893, the following was found:

Spleen and liver normal, digestion quite active if he eats soft food; he has no teeth; lung expansion 1 inch; chest flat. There is dullness over upper lobe of right lung, and absence of normal respiratory murmur over both lungs, with prolonged expiratory sounds. Respiration is harsh. The man is in advanced pulmonary phthisis, and his chills and fever are probably hectic. He shows a deep furrow on left side of anus one-half inch from margin, running from before backward 2 inches long, where he has been operated on for fistulæ. There are two openings in this gutter, probably penetrating the rectum, but his physical condition will not justify a further exploration. He may have had malarial poisoning, and his present deplorable condition may have followed the malnutrition resulting from it, but the probabilities are strongly in favor of his present chills and fever being hectic from the absorption of septic matter in lung cavities. He is permanently and totally incapacitated for the performance of manual labor—twenty-four thirtieths for pulmonary consumption and six-eightieths for fistula in ano. No other disability is found to exist.

The disabilities of this soldier are great, but not apparently of service origin, except in part.

In view of his condition and his service your committee favor an increase, and the bill is reported back with the recommendation that it pass when amended as follows:

After the word "States," in line 5, insert "and pay him a pension."

In line 6 strike out "thirty-five" and insert "twenty-four" in lieu thereof.

Strike out all after the word "month," in line 6, and insert in lieu thereof the following: "in lieu of the pension he is now receiving."

CLARISSA E. HOBBS.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 603.]

The Committee on Invalid Pensions, to whom was referred Senate bill 603 and House bill 1009, granting a pension to Clarissa E. Hobbs, have examined the same and the evidence relating thereto and report the Senate bill.

This bill proposes to pension, at \$12 per month, Clarissa E. Hobbs, of Louisville, Nebr.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 603) granting a pension to Clarissa E. Hobbs, have examined the same, and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

The petitioner referred to herein made application to the Pension Office under the general law granting pensions to nurses, but was rejected on the ground that there was no record in the War-Department of any authority by which the petitioner was employed as hospital nurse. The fact of her services is beyond question, as the following affidavit will show, and other evidence in the papers fully corroborate:

It appears that she was regimental nurse of the Twelfth Iowa Infantry from its organization at Camp Union, Iowa, on the 18th day of October, 1861, to the 2d day of January, 1862, and she was honorably released at St. Louis, Mo. She also served at Smithland, Ky., Savannah, Tenn., and Pittsburg Landing, and in said service she incurred these disabilities, from which she has been suffering ever since; and while she has no medical record on file in the War Department, it appears, over the signature of Col. F. C. Ainsworth, Chief of the Record and Pension Office, War Department, "that she has a record as nurse, and that she faithfully performed the duties of nurse and rendered more efficient service to the sick than any other nurse in the hospital." The following affidavit is submitted:

STATE OF IOWA, *Wright County*:

I, F. C. Cromwell, being first duly sworn, do depose and say: That I was a member of Company A, of Twelfth Regiment Iowa Volunteer Infantry; that I enlisted on or about September 15, 1861, at Aldora, Iowa; I went into camp of instruction at Dubuque, Iowa, on or about October 1, 1861; that on or about said date J. C. H. Hobbs volunteered in said company and regiment; that said J. C. H. Hobbs was accompanied by his wife, Mrs. Clarissa E. Hobbs; that on or near the above date

J. C. H. Hobbs was detailed as hospital steward, and that Clarissa E. Hobbs acted as nurse to said company and regiment during our stay at Dubuque, Iowa, and that she accompanied said regiment to St. Louis, Mo., and that she accompanied said regiment to Smithland, Ky., also to Fort Donelson, Tenn., and from there to Savannah, Tenn. I further state that it was my custom to visit the sick in the hospitals where our regiment was encamped, and that I personally visited at Dubuque, Iowa, St. Louis, Mo., Smithland, Ky., Fort Donelson, Tenn., and Savannah, Tenn., the hospitals of our regiment during the time of the encampment of said regiment at said places in the fall of 1861 and spring of 1862, and that I was well acquainted with the said Clarissa E. Hobbs, and saw her acting as nurse in all of said places, and that the last time I recollect of seeing her acting in that capacity was on or about April 1, 1862, at Savannah, Tenn. And I further state that said regiment (Twelfth Iowa Volunteers), including myself, was captured at Shiloh, Tenn., April 6, 1862, and that during our imprisonment of about six months and a half no regimental records of said organization were kept. I further state that on or about January, 1863, after said regiment had been exchanged, a reorganization was effected at St. Louis, Mo.; that the records at that time were made up from memory of its surviving members; that I myself assisted in furnishing the data of said records; that the assistant surgeon and J. H. C. Hobbs, hospital steward, both having been promoted to other commands, were not present; neither was Mrs. Clarissa E. Hobbs; and my recollection is that the record of Mrs. Clarissa E. Hobbs was not thought of at that time.

F. C. CROMWELL.

Subscribed and sworn to before me by the said F. C. Cromwell this 14th day of April, 1896.

F. C. FENNINGER,

Notary Public in and for Wright County, Iowa.

It also appears that Charles C. Parker, late surgeon of the Twelfth Iowa Infantry, makes an affidavit to the fact that he was surgeon of said regiment and that she was a nurse in the regimental hospital and performed faithful and efficient service. A. G. Simpson, second lieutenant of said regiment, also corroborates. It further appears that her husband, James C. H. Hobbs, was hospital steward in said regiment, and he also certified to the service.

This case is within the spirit of the law, and is entitled to this pension.

The Senate bill is therefore reported back, with the recommendation that it pass when amended as follows:

After the word "her," line 5, insert the words "a pension."

IRA INGRAHAM.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT

[To accompany H. R. 99.]

The Committee on Invalid Pensions, to whom was referred House bill No. 99, have examined the same and the evidence and respectfully report:

This bill proposes to pension, at \$12 per month, Ira Ingraham, of Providence, R. I.

A similar bill was reported by the Senate in the Fifty-second Congress, and that report is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1540) granting a pension to Ira Ingraham, have examined the same and report:

The claimant under this bill was a volunteer surgeon from Rhode Island, bearing instructions from the governor of that State, in response to a call from the Surgeon-General of the Army. He rendered unusually efficient service at Fort Monroe, losing his health in the service, and for which he has not received any compensation whatever. The case is clearly meritorious, and your committee report the bill back favorably, and recommend its passage, amended as follows:

Strike out, in lines 4 and 5, the words "subject to the provisions and limitations of the pension laws;" also strike out, in lines 7 and 8, the words "at the rate of pension provided for assistant surgeons of volunteers," and insert instead thereof the words "at the rate of twelve dollars per month."

STATE OF RHODE ISLAND, EXECUTIVE DEPARTMENT,
Providence, 12th May, 1864.

To all United States officers:

The bearer of this letter, Dr. Ira Ingraham, is a loyal surgeon of this State on his way to Fortress Monroe in response to a call from the Surgeon-General of the Army.

Every facility and attention should be extended to him in his good work.

Very respectfully,

JAMES Y. SMITH, *Governor of R. Island.*

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
IN GENERAL ASSEMBLY,
January Session, A. D. 1865.

Resolution of thanks to certain physicians for services in response to a call of the Surgeon-General of the United States.

Resolved, That the thanks of the general assembly are due, and are hereby tendered, to Colonel Havard W. King, surgeon-general, and to Doctors George C. Capron, X. H. Peckham, T. G. Potter, George P. Baker, Samuel W. Butler, Ira Ingraham, and Frank H. Knowles for the valuable services voluntarily and gratuitously rendered to the wounded in the Army of the James at Fortress Monroe and in the field, in

response to a call made in May last by the Surgeon-General of the United States upon the governor of this State.

I certify the above to be a true copy.

In testimony whereof I have hereto set my hand and affixed the seal of the State this twenty-eighth day of May, in the year of our Lord, 1866.

[SEAL.]

JOHN R. BARTLETT, *Secretary of State.*

PROVIDENCE, November 27, 1889.

Mr. NELSON W. ALDRICH:

DEAR SIR: In May, 1864, I was requested by Governor Smith to go with others to Virginia, in response to a call made by the Surgeon-General of the U. S. Army for volunteer surgeons. We were stationed at the United States General Hospital, Hampton, Va. I was placed in charge of a ward of 75 badly wounded men. Dr. Baker, one of our surgeons, was given a ward next to mine, with same number of patients. I think in two or three days Dr. Baker was taken unwell and requested me to look after his patients while he went down to Fortress Monroe. He was so unwell that he returned immediately to Rhode Island, taking with him Dr. Butler, another of our surgeons. As soon as I heard they had gone home, I asked for another to take Dr. Baker's place, but was told there was no one; that I must do the best I could. No one man could care for 150 badly wounded men as they should be cared for, but I did the best I could—often requiring twenty hours per day. And in addition to my work was called to administer ether to every patient in hospital that required operation that needed ether. The water at the hospital was very bad, and most of our Rhode Island surgeons were very soon sick with diarrhea. The ether and sickening stench from so many wounds took away my appetite for food and caused continual vomiting, frequently vomiting blood. I staid my time out and received my certificate of discharge, but there being no one to take my place I staid longer. When I was relieved I went home sick. After resting I tried to resume my work, but my stomach was so weak I could not work. I retained my office for more than two years, hoping all the time to get stronger, and was then obliged to give up my business and go to the country. My business at the time I went to Virginia was worth more than \$3,000 per year and increasing yearly. I have never been able to resume my work since; have never seen a well day when I was free from pain.

I had saved some property when I went to Virginia and have used it as prudently as possible. As long as it lasted I never asked for help. It is now all gone and I have no one to look to for any help. I am now 70 years old and must suffer unless I get some assistance. I have never received a penny for my services in any way.

Most respectfully, yours,

IRA INGRAHAM.

P. S.—Inclosed you will find my papers. I wish them saved and returned to me. My address:

Dr. I. INGRAHAM,
36 Dartmouth Ave., Providence, R. I.

UNITED STATES POST-OFFICE,
Providence R. I., December 17, 1889.

DEAR SENATOR: Dr. Ira Ingraham, a neighbor of mine, has asked me to write you a note concerning his application for assistance on account of service rendered as surgeon in the war of the rebellion. I have known Dr. Ingraham many years, and believe his statements to be truthful. That he is very poor and destitute, and too old and feeble to work, is unquestionably true. He is a man who has always been correct and temperate in his habits, and if there is any way that he can receive help from the Government it will be gratefully appreciated by him, as well as by his neighbors and friends.

Very truly,

C. H. GEORGE.

Hon. N. W. ALDRICH.

A similar bill was reported by the Fifty-fourth Congress.

We can add nothing to the force of the facts stated.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 6, after the word "rebellion," insert the following: "and pay him a pension."

JOHN T. BREWSTER.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 2318.]

The Committee on Invalid Pensions, to whom was referred House bill No. 2318, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$30 to \$50 per month the pension of John T. Brewster, of Washington, D. C.

This man served from August 16, 1863, to June 10, 1865, when he was discharged on surgeon's certificate of disability as a sergeant of Company K, One hundred and forty-first Infantry, the certificate stating that claimant had been disabled by necrosis of right femur from gunshot wound received at Chancellorsville, Va., May 3, 1863.

The records show him to have been treated in the service in different hospitals at different times for gunshot wound (flesh) of right thigh; gunshot wound upper third of femur (severe); gunshot wound hip (severe).

Examination in 1865 showed gunshot wound right thigh, followed by severe inflammation, abscesses, and necrosis; wounds still open.

He was pensioned at \$8 per month from date of discharge; reduced to \$2 from March 4, 1868; increased to \$4 from September 4, 1873; to \$6 from February 3, 1879; to \$8 from September 26, 1883; to \$12 per month from October 18, 1887; to \$17 from June 17, 1889; to \$24 from September 29, 1894; and to \$30 from October 28, 1895, which rate he is now receiving.

The certificate of his last examination by the board at Washington, D. C., October 28, 1895, shows gunshot wound right thigh.

Aperture of entrance on antero-external aspect of upper third. Cicatrix one by three-fourths inch, adherent, depressed, three-fourths inch deep, painless. Aperture of exit on exterior aspect of right buttock 2 inches above external extremity of gluteal fold. Cicatrix three-fourths by three-fourths inch, adherent, hyperæsthetic. Between apertures of entrance and exit are three sinuses, from which there is a free discharge of pus. The entire buttock is enlarged and somewhat indurated. The upper third of the right thigh is similarly enlarged, measuring in circumfer-

ence 20 $\frac{3}{4}$ inches; left 19 $\frac{1}{2}$. Other thirds symmetrical. Right calf atrophied and measuring 13 inches; left 13 $\frac{1}{2}$.

Right buttock and upper third of thigh are sensitive to pressure. The hip joint is tender on pressure and motion, and its movements are restricted to a considerable degree. Locomotion without use of cane or crutch is difficult, and evidently painful. Claimant states, and we believe, that he always requires the aid of a cane; that he frequently requires a crutch in addition to his cane, and that at times, especially in inclement weather, two crutches are required. Doubtless the upper extremity of the femur was injured, and has become more or less necrosed. Claimant can feed, dress, and undress without assistance, and also care for himself at stool. He, doubtless, requires the attention of some one else for the purpose of cleansing and dressing the sinuses above described. He is totally incapacitated for manual labor of any description.

There is testimony on file with the committee which shows conclusively that in consequence of claimant's wound he is totally disabled for any kind of labor, and requires the frequent and periodical aid and attendance of another person, not only in caring for and dressing wounds, which are open and discharging pus, but also to aid him in dressing and undressing. This is shown by evidence, both medical and lay.

A bill was favorably reported by this committee in the Fifty-fourth Congress to increase this soldier's pension to \$50 per month and passed the House.

This is clearly a \$50 disability under the general law, and there is no reason why the Pension Bureau should not have given the increase repeatedly asked.

The bill is reported back with the recommendation that it pass.

CATHERINE LEARY.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1450.]

The Committee on Invalid Pensions, to whom was referred the Senate bill (S. 1450) granting a pension to Catherine Leary, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at \$12 per month Catherine Leary, of Bismarck, N. Dak.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1450) granting a pension to Catherine Leary, have examined the same and report:

A similar bill was introduced in the Fifty-fourth Congress, and passed both Houses of Congress.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

"The claimant is the widow of John Leary, who was a private in Company D, Seventeenth Regiment United States Infantry, who, when living, received a pension, under certificate 616777, of \$8 per month, on the ground of disability incurred in the service.

"This claimant now asks for a pension by Congressional legislation, on the ground of having been a nurse from the first week in April, 1866, to about the last day of October, same year, at Camp Grant, near Richmond, Va., thus claiming to have served six and a half months; that she is unable to earn a support by reason of heart disease and injury to eyes while acting as such nurse, and from age and infirmity.

"She made application to the Department of Pensions under number 1157770, but was rejected, on the ground that the employment of claimant was not accepted by the War Department as employment by competent authority and of service coming within the provisions of the act of August 5, 1892.

"The record shows that Catherine Leary, matron, was attached to hospital, Camp Grant, Richmond, Va., October 1, 1866, and discharged October 31, 1866. The post and general hospital in Richmond, Va., opened on April 13, 1865, was removed to Camp Grant, near Richmond, Va., December, 1866, and was designated as Post Hospital, Camp Grant, near Richmond, Va.

"The record also shows that she was paid for one month's service, from October 1 to October 31. She also submits certificate from W. H. Clapp, captain of the Sixteenth Infantry, to the effect that from about May, 1866, until some time in 1869 he personally knew John Leary, in Company F, Eleventh Infantry, stationed at Richmond, Va., and knew that his wife, Kate Leary, was duly appointed hospital matron, and rendered service in that capacity for more than six months, during which time the regiment passed through an epidemic of cholera, in the summer and fall of 1866.

"In support of her claim, she submits an affidavit of John M. Garrett, of Bismarck, N. Dak., who says that about the last of September or the 1st of October, 1866, while he was a member of Company D, Second Battalion of the Eleventh United States Regulars, he was sent to hospital at Camp Grant, Richmond, Va., and that he remained in said hospital about two weeks; that at that time Mrs. Catherine Leary was serving as nurse in said hospital; and that he has no interest in the matter.

"Also, the following affidavit from Fanny Davis, of the same county and State, who says that she was well and intimately acquainted with Catherine Leary since the first of the year 1866; that she lived next door to her, at Camp Grant, Va.; that about the 1st of April, 1866, Mrs. Leary commenced to work in the hospital of said camp, being employed as nurse until the 1st of October, in the same year; that she saw her every day during said period, and knows that she was Mrs. Leary, and was employed and acting as nurse during that period, and it was well understood by the soldiers and employees about said camp that she was employed in said camp; that it was within said period that affiant was employed by Private Gillis, Company E, as a domestic in his family."

The claim is just and the bill should become a law. The bill is therefore reported back with the recommendation that it pass.

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SARAH R. FRARY.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 499.]

The Committee on Invalid Pensions, to whom was referred the Senate bill No. 499, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at \$8 per month Sarah R. Frary, of Haverhill, Mass.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 499) granting a pension to Sarah R. Frary, have examined the same and report:

A similar bill passed the Senate during the second session of the Fifty-fourth Congress, and was reported favorably by the House.

Your committee recommend the passage of the bill, adopting the report of the Senate committee to the Fifty-fourth Congress, which report is as follows:

“Jedediah C. W. Frary, who was the husband of the beneficiary of this bill, enlisted September 16, 1862, and was mustered into the United States service September 19, 1862, for three years as a private in the First New England Cavalry, New Hampshire Volunteers. The records fail to show how long he served in that organization, or when he was discharged therefrom. He enlisted February 10 as a private in Company H, Eighteenth New Hampshire Infantry, and was honorably discharged therefrom May 6, 1865. His service in this organization was a little less than ninety days in duration, and as the records do not show the length of his service in the former organization, his widow has technically no legal title. She is, however, 74 years of age, and destitute of means of support, aside from her own daily labor, which she is no longer able to perform, and unless relief be afforded by Congressional action must soon go to the poorhouse.

“Your committee consider this as a proper case for Congressional relief, and recommend the passage of the bill.”

After due consideration your committee report the bill back with the recommendation that it pass.

WILLIAM IOTT.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7554.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7554) granting a pension to William Iott, have examined the same and report:

This bill proposes to pension, at \$12 per month, William Iott, of Gowen, Mich., the father of Thomas M. Iott, late of Company G, Fifteenth Michigan Infantry; Harrison Iott, late of Company I, First Michigan Cavalry, and John H. Iott, late of Company K, Eighth Michigan Volunteers, and Company C, Battalion Engineers, U. S. A.

It appears that John H. Iott is living and a pensioner; that Harrison Iott died of wounds in the service, leaving a widow who was pensioned until her remarriage; so that the father could have no legal title on account of the service of either of these sons.

Thomas M. Iott served from April 4 to August 13, 1865, when he was honorably discharged. The records show that he was treated while in the service for remittent fever and intermittent fever.

Claimant filed a claim on account of the service of this son May 20, 1892, but it was rejected December 6, 1897, on the ground that evidence filed, which appears to be the best obtainable, fails to show the date or cause of the soldier's death. The claimant swears that Thomas M. Iott came from the Army sick with disease that terminated in spinal fever; was at home three years, and was under a doctor's care the whole of that time; that in 1868 he went to Maryland with an uncle, but was taken worse after being there a few days, and started to come back home and died on the way home. The uncle, who was with him on the way home, has died, and claimant got a letter from him telling of the soldier's death, but it was lost.

This claimant is the father of three soldiers, two of whom are dead, one of these being killed in action, and on account of whose service no one is pensioned. The other died some years after leaving the service, as claimant believes, though he is not able to establish the fact to the satisfaction of the Pension Office, from disease originating in the service. This man is now 76 years of age, has lost one arm, is sick, having disease of the lungs, and is a broken-down old man without property or means of support; is obliged to be aided from the poor fund.

The facts fully justify the bill, and same is reported back with the recommendation that it pass.

Amend the title as indicated.

W. L. FAXON.

MARCH 31, 1898.—Committed to the Committee on the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 116.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 116) granting a pension to W. L. Faxon, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension W. L. Faxon, of Middleboro, Mass., at the rate of \$12 per month.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 116) granting a pension to W. L. Faxon, have examined the same, and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

The following letter from the claimant explains his military service:

MIDDLEBORO, *February 21, 1896.*

DEAR SIR: In reply to your request of the 19th instant, I send you facts as follows:

I was assistant surgeon of the Fourth Massachusetts Militia from April 17, 1861, to June 7, 1862. Landed at Fort Monroe April 19 (I think); mustered out of the United States service at the expiration of its three months' service.

Was mustered assistant surgeon Thirty-second Massachusetts Volunteers June 7, 1862; promoted surgeon August 25, 1863; mustered out of service June 7, 1865; I was left in charge of the wounded of the First Division, Fifth Corps, at battle of the Wilderness; was for a short time prisoner and on duty with the Union wounded at Locustgrove, Va.; getting out of the Wilderness, I was at Fredericksburg, Va., placed in charge of all the wounded officers of our army; in a few days was appointed surgeon in chief of the depot hospital Fifth Army Corps; at Port Royal, on the Rappahannock River, I was detailed to be chief medical officer of the place. On the final evacuation of that post by our army, I again took the Fifth Corps hospital at Whitehouse, Va., and was, when the army crossed to the south side of the James, left to close up the hospital work at Whitehouse and bring away the last of the sick and wounded; I did this, and joined my hospital at City Point; there I had charge of the Fifth Corps depot hospital; was surgeon in charge of the smallpox hospital of the whole army; I had in the appendix to the Fifth Corps hospital all the wounded Confederate prisoners, and I had also placed upon me the burden of the Ninth Corps depot hospital, and also the Sixth Corps for some time in the spring of 1865. These statements can all be verified by data at the Surgeon-General's Office.

The number of my claim is 1163234, now on file at Pension Office, with testimony and reports from the medical examiners of this district.

Very respectfully, yours,

WM. L. FAXON.

Hon. H. C. LODGE, *United States Senator.*

In December, 1894, claimant made application for pension under the act of June 27, 1890, alleging rheumatism in hands and general weakening of bodily powers.

Several affidavits are on file testifying to the fact that soldier is physically unable to earn a living by manual labor. Dr. Z. Boylston Adams, late surgeon Thirty-second Massachusetts Volunteer Infantry, testifies as follows:

"I have a perfectly clear recollection of the fact that Dr. Faxon was sick and unable to do duty during nearly the whole time of our stay at Harrisons Landing, Va., in the months of July and August, 1862, and that he suffered from the fever then prevailing and very fatal in our camp."

Claimant was examined April 3, 1895, by the examining board at Middleboro, Mass., who found him suffering from enlarged and stiffened joints of fingers, marked crepitation in left knee, muscular soreness in lumbar region, with limitation of motion. Heart slightly enlarged, with pulse rate of 88. Injury to knee, with considerable crepitation in joint, limitation of motion, and half loss of power. Physically able to perform but little manual labor on account of general physical debility.

Notwithstanding this strong testimony, the claim was rejected, on the ground that soldier was not disabled by cause alleged in a degree ratable under act of June 27, 1890.

From the evidence in the case your committee reach a different conclusion, and therefore recommend the passage of the bill, after being amended by striking out in line 7 the word "twenty-five" and substituting therefor the word "twelve." The amendment is recommended for the reason that application was made under the act of June 27, 1890, the maximum rate of pension under which act is \$12 per month.

The bill is therefore reported back with the recommendation that it pass.

CHARLES HOFFMAN.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

REPORT

[To accompany H. R. 4691.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4691) granting an increase of pension to Charles Hoffman, have examined the same and the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$12 to \$24 per month the pension of Charles Hoffman, of Saxonburg, Pa., who served in Company K, First Pennsylvania Volunteers, in the Mexican war from December 16, 1846, until July 25, 1848, and in Company E, Seventy-eighth Pennsylvania Volunteer Infantry, during the war of the rebellion, from February 14, 1865, to September 19, 1865, when he was honorably discharged.

He was pensioned as a Mexican survivor at \$8 per month from January 29, 1887, to July 17, 1890, since which date he has been pensioned at \$12 per month under the act of June 27, 1890, for disease of lungs and loss of left thumb.

At his only examination by a board of pension surgeons, made March 20, 1891, he was rated ten-eighteenths for disease of lungs and eight-eighteenths for loss of left thumb. He never claimed pension under the general law. His thumb was accidentally cut off in 1850, and he has never alleged that his disease of lungs originated in the service.

It is shown, by evidence filed with this committee, that claimant is now totally disabled for labor by partial paralysis, is nearly seventy-five years of age, and has no income and no means of support except his pension of \$12 per month.

In view of these facts an increase is justified.

Your committee report the bill back with the recommendation that it pass when amended as follows:

In line 4, strike out "increase the pension," and insert in lieu thereof "place the name."

In line 5, strike out "of Saxonburg, Butler County, Pennsylvania."

In line 8, strike out the word "from," and strike out all of line 9, and insert in lieu thereof "on the pension roll and pay him a pension of twenty-four dollars per month, in lieu of the pension he is now receiving."

STATE OF PENNSYLVANIA, *County of Butler, ss:*

On this 24th day of November, A. D. 1897, personally appeared before me, J. D. Wilson, one of the justices of the peace within and for the county and State aforesaid, Lewis A. Helmbold and Frederick Bauman, both of the borough of Saxonburg, county of Butler and State of Pennsylvania, who, being duly sworn according to law, declare and say we know Charles Hoffman, a veteran of two wars; we know that he was a strong and able-bodied man twenty years ago, and through rheumatism got so that he is totally unable to do anything to make a living, and has no other income but \$12 of pension a month; and further say that we have no interest in the claim, and further saith not.

LOUIS A. HELMBOLD.
F. BAUMAN.

Sworn and subscribed before me this 24th day of November, 1897.

[SEAL.]

J. D. WILSON, *Justice of the Peace.*

SAXONBURG, BUTLER COUNTY, PA.,
November 22, 1897.

I hereby certify that I have been the family physician of Charles Hoffman for the past four years and have attended said Hoffman for chronic muscular rheumatism for about three years; about one year ago he had a slight paralytic stroke, and since that time he has been totally disabled from performing his usual duties.

W. W. LASHER, M. D.

Sworn and subscribed before me this 22d day of November, 1897.

[SEAL.]

J. D. WILSON, *Justice of the Peace.*

STATE OF PENNSYLVANIA, *County of Butler, ss:*

On the 28th day of December, A. D. 1897, before me, J. D. Wilson, esq., one of the justices of the peace in and for the above-named county and State, personally came E. E. Graham, Philip Burtner, T. King, August Stuebgen, John Schoentag, R. E. Neubert, E. F. Neubert, John E. Muder, jr., John E. Muder, sr., who, after being sworn according to law, depose and saith that we are citizens of the borough of Saxonburg, county of Butler and State of Pennsylvania, and our post-office address is Saxonburg, Butler County, and State of Pennsylvania, citizens well known to me, of good repute and character. We have been acquainted with Charles Hoffman quite a number of years; know him to be a veteran of two wars, and also know him at present; that he is not able to do anything at all, as his left side is paralyzed, and he can not walk at all without a cane, and is not able to do anything to make a livelihood.

ELMER E. GRAHAM.
PHILIP BURTNER.
T. KING.
AUGUST STUEBGEN.
JOHN SCHOENTAG.
R. E. NEUBERT.
E. F. NEUBERT.
J. E. MUDER, Jr.
JOHN E. MUDER, Sr.

Sworn and subscribed before me this 28th day of December, 1897.

[SEAL.]

J. D. WILSON, *Justice of the Peace.*

STATE OF PENNSYLVANIA, *County of Butler*, ss:

On this — day of November A. D. 1897, personally appeared before me, J. D. Wilson, one of the justices of the peace within and for the county and State aforesaid, Charles Hoffman, aged 75 years, a resident of Saxonburg, Butler County, State of Pennsylvania, who, being duly sworn according to law, declares that he enlisted as a private in the Duquesne Grays, in September, A. D. 1846, at Pittsburg, Allegheny County, State of Pennsylvania, under Capt. John Herron, and was mustered into United States Army on the 28th day of February, A. D. 1847, on the Island of Lobos, into Company K, First Regiment Pennsylvania Volunteers—Cols. F. Wynkoop and Sam Black—by John Sedgwick, first lieutenant, Second Artillery, in the war with Mexico; with General Scott's army from Vera Cruz, into Mexico, and was discharged in September, 1848, at Pittsburg, Pa. On February 13, 1865, I enlisted in Company E, Seventy eighth Regiment Pennsylvania Volunteers, under Capt. Irvin Boggs. The reason why I did not enlist sooner I had cut my left thumb in 1850. I also had about 50 men well drilled and offered their services, first for three months and afterward for three years, but was not accepted till in 1865. The law changed so that a loss of thumb made no difference—on the left hand did not make any difference—and enlisted in Company E, Seventy-eighth Regiment Volunteers, and served to the end of the war and was discharged as lieutenant at Harrisburg, on the 19th day of September, 1865; and I suffered with rheumatism for a period of twenty years, off and on; but this last year back I am almost laid up altogether, and now I am not able to do anything, and have no income but twelve dollars pension a month. I have a one-story frame house and small lot of ground in Saxonburg, Butler Co., Pa., on Water st. Dr. W. W. Lasher has been my family physician for the last four years, and is yet. I can not even write any more or attend to my office, as I have the rheumatism in my right arm. In Mexico I was at the landing at Vera Cruz. Our division under General Patterson was the 3d division. We landed between 8 and 9 p. m., in February; I don't know the date. Went on to Mexico on the National Road. We fought a two days' battle on the Plantell, Rio Ciro Gordo. In that battle we took 16,000 prisoners, and all the arms, accouterments, and artillery; after we took the Castle of Perode; and then to Pueblo, a city of 25,000 citizens. We were only four companies of our regiment, under the command of Lient. Col. Sam Black. After St. Ana was whipped at the City of Mexico he came on to Pueblo with eight thousand men, and wanted us to surrender, but we did not surrender; then he besieged us for twenty-eight days. After we got reinforcements from Vera Cruz we chased them out of Pueblo. Our company—with thirty men of our company—followed, were ordered to follow them, and did; they cut us off from our quarters; we had to fight our way through. In that fight we lost 13 men out of 30, killed, four or five mortally wounded. I send a copy of our first muster roll to you; see all those marked with a red cross are killed at that time. I was also at the battle of Lchoze, in the pass; our company had to go on top and chase the Mexicans off at the El Paso, and went on to Mexico City until the war was over, and was discharged at Pittsburg in September, 1848.

CHARLES HOFFMAN.

Sworn and subscribed before me this 26th day of November, 1897.

[SEAL.]

J. D. WILSON, *Justice of the Peace.*



BETSEY B. OLIN.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 497.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 497) granting an increase of pension to Betsey B. Olin, have carefully examined the same and the evidence relating thereto and respectfully report:

This bill proposes to pension Betsey B. Olin, of New Hampshire, at the rate of \$25 per month.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 497) granting an increase of pension to Betsey B. Olin, have examined the same and report:

A similar bill passed the Senate during the first session of the Fifty-fourth Congress, and was reported favorably by the House. Your committee recommend the passage of the bill, adopting the report of the Senate committee to the Fifty-fourth Congress, which report is as follows:

“Claimant is the widow of Charles Olin, late a private of Company I, Seventh Regiment New Hampshire Volunteers. Soldier enlisted November 2, 1861, and was discharged for disability January 13, 1863. He was pensioned, and died from the effects of his army service December 28, 1884.

“Claimant was married to soldier October 3, 1837, and is now about 80 years of age. She is drawing a pension of \$12 per month under the general laws, and increase is asked to \$25 per month on the ground of hopeless insanity. She is utterly destitute, and being insane requires the constant care of others.

“Your committee, in view of the extreme circumstances of the case, report the bill back favorably, with a recommendation that it pass.”

The bill is therefore reported back with the recommendation that it pass.

"ITEWAYAKA," OR "ONE-ARMED JIM."

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1541.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1541) granting a pension to "Itewayaka," or "One-armed Jim," have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension "Itewayaka," or "One-armed Jim," of Wilmot, S. Dak., at the rate of \$12 per month.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1541) granting a pension to "Itewayaka," or "One-armed Jim," have examined the same and recommend the passage of the bill with an amendment.

Amend by striking out all after the word "rate" and insert in lieu thereof the words "of twelve dollars per month."

UNITED STATES SENATE,
Washington, D. C., May 21, 1896.

This man, "Itewayaka," or "One-armed Jim," was one of the number of scouts in the Government employ in Minnesota from 1862 to the close of the war, during and about the time of the New Ulm massacre at Mankato. The petition and the evidence which I left with the bill indicated that this man lost his arm while in the service of the Government and acting under military instructions. I do not know what the pension law is relative to such matters; that is, the pensioning of men who were not actually enlisted or mustered into service. There were a number of these scouts who did as good service for the Government as any of the regularly enlisted soldiers, and it seems to me they should be entitled to recognition under our pension laws.

Two gentlemen from Sisseton Reservation, in South Dakota, are now in Washington, attending to some matters before the Interior Department, and as they were present and in the employ of the Government as scouts at the time of the New Ulm massacre, and were acquainted with the circumstances under which "Itewayaka," or "One-armed Jim," lost his arm, I have asked them to come before the committee and make a statement. These two men are Samuel J. Brown, who during the war acted as chief of scouts and acting military agent, and Chief Solomon Two Stars, a full-blooded Indian, who acted as chief of scouts, in New Ulm, Minn., to the close of the war.

JAMES H. KYLE.

I know "Itewayaka," or "One-armed Jim," well, and know that he was in the Government service, and that he, on or about the middle of May, 1865, was brought to the fort for the purpose of having his hand amputated; that I was present when the surgeon, a Dr. Farley, amputated it. I remember well the incidents; one was the remark he made just before the arm was cut, and while he was being put under the influence of anæsthetics, that he wanted the surgeon to be sure and see that he save one finger and thumb, but when the surgeon examined the hand he found that mortification had set in nearly one half way to the elbow, and he had to cut it off between the wrist and elbow. When "One-armed Jim" came to, he was very much disappointed, and said we had lied to him. In the spring of 1865 a scouting expedition was made. The organization was perfected about the middle of May, 1865. These scouts were sent out to occupy stations 12 or 15 miles apart; each squad was commanded by a chief, 12 or 15 scouts.

About March of that same year a large party from the northwest, under the leadership of one Jack Campbell, visited the region of Mankato and committed those atrocious murders that were known as the Jewett. They nearly created a stampede from the State. This man Campbell had murdered a wealthy farmer about three miles from Mankato and put on the dead man's clothes and went into town, it was supposed for the purpose to find out what the intention of the whites would be toward the Indians, and that he was recognized and was at once arrested by a mob, thrown into a wagon, and taken to the court-house square at Mankato and hung to a tree. The remaining fifteen fled from him with horses, guns, silk dresses, and silverware, and they managed to pass the soldiers and managed to get outside of the State of Minnesota, and were taking the things homeward when our scouts intercepted them all but one man. These fifteen were called during the month of May, 1865, at different times. There was one of the party of five to which the lame Jim belonged who was under Two Stars as chief. We were in the third subdistrict in the military district of Minnesota, of the Department of Northwest, commanded by General Sibley and under the immediate orders of Maj. R. H. Rose, commandant of those subdistricts. Major Rose was of the Second Regiment of Minnesota Cavalry. We were paid \$1, \$1.50, and \$2 a day, according to the service furnished, and the Indians who served with a horse were paid more than those who served without a horse. We drew our pay from the recorder master at Fort Wadsworth, D. T., by A. H. Mills, I think, but am not positive. I belonged to the Sisseton and Wahpeton bands.

SAMUEL J. BROWN.

STATEMENT.

- Q. Did you know "Itewayaka," or "One-armed Jim?"—A. Yes.
 Q. Did you know him from 1862 to 1865?—A. Yes.
 Q. What troop of Indians did you belong to?—A. To the Sisseton Indians.
 Q. Are you a full-blooded Indian?—A. Yes.
 Q. Is "Itewayaka" a full-blooded Indian?—A. Yes.
 Q. Were you employed by the Government from 1862 to 1865?—A. Yes.
 Q. Part of the time you were chief of scouts?—A. Yes.
 Q. Did "Itewayaka" serve as a scout under you?—A. Yes.
 Q. Were you employed by the Government at that time?—A. Yes.
 Q. Did you receive your pay from the Government?—A. Yes.
 Q. Did you fight under military orders?—A. Yes.
 Q. Do you remember the time when you were ordered on this expedition, during which time "Itewayaka" lost his arm?—A. Yes.
 Q. How did he happen to lose his arm?—A. He had received instructions from the commanding officer at Blue Earth County, Minn., to keep a lookout for some Indians that had committed the Jewett murder. Those Indians, as he stated, were the ones that committed those horrible murders at Mankato.
 Q. Under whose orders were you acting then?—A. Under the instructions of Maj. R. H. Rose, of the Second Regiment Minnesota Cavalry.
 Q. How did he come to be hurt?—A. That while chasing the Indians he and Two Stars reached the Indians first, and "One-armed Jim" was behind us, and that they had better dispose of those two in case one got away. Then this lame Jim loaded his gun and fired at the Indians and the gun burst and tore off his hand.
 Q. Do you remember of him having his arm amputated?—A. Yes. He notified the commanding officer, who sent down a team and had him brought to the hospital.
 Q. This is the same man who now lives in the Sisseton Agency?—A. Yes.

TWO STARS, Chief.

WASHINGTON, D. C., *October 1, 1892.*

SIR: In the case of the Indian, "Itewayaka," for pension, you are informed that the records of the War Department do not show that the organization known as Major Rose's Indian Scouts, in which claimant alleges service, was ever mustered into the service of the United States. If this claimant received a discharge from his service he should forward it to me, and if he served in any other organization he should give the name of that organization, with a full statement as to time of enlistment and discharge and service performed.

Very respectfully,

C. D. PENNEBAKER.

Mr. JOHN A. MUNRO, *Wilmot, S. Dak.*

STATE OF SOUTH DAKOTA, *County of Roberts, ss:*

"Itewayaka," or "One-Armed Jim," being first duly sworn, deposes and says: That he is a Sioux Indian of the Sisseton band, and that he entered the military service of the United States as a scout, in the military district of Minnesota, on or about the 11th day of April, A. D. 1863, and continued to serve in said district in said military service until discharged therefrom, on or about the 1st day of October, A. D. 1864. That while he was in such service and engaged in action with a party of hostile Indians who had been on a raid and had killed the Jewett family in Blue Earth County, Minn., the barrel of his gun burst and tore off his left hand and a portion of his left arm, so that his hand had to be amputated, and was amputated, by Dr. Farley. That he has always been friendly to the whites, and observed every obligation imposed upon him by treaty and by natural or municipal law. That he is now 63 years of age and unable to support himself with but one single hand and arm; and that he makes this affidavit for the purpose of being placed on the pension roll of the United States at the rate allowed for the loss of a hand and arm to enlisted men in the service. And further deponent saith not.

ITEWAYAKA.

Sworn to and subscribed before me on this — day of —, A. D. 1891.

_____,
United States Indian Agent, Sisseton Agency.

STATE OF SOUTH DAKOTA, *County of —, ss:*

Two Stars, being first duly sworn, deposes and says that he is a Sioux Indian of the Sisseton band; that he was in the military service of the United States as a scout in the district of Minnesota from about the 10th day of February, A. D. 1863, to the 15th day of October, A. D. 1866; that while he was so in the military service of the United States he was often sent by General Sibly, commanding the districts, and by Gabriel Renville, commanding the Indian scouts, on scouts and reconnaissance for hostile Indians; that while engaged in one of said scouts with a party of Indians numbering about five, of whom Itewayaka or "One-armed Jim" was one, and about the — day of —, A. D. 186—, he came upon a party of hostile Indians numbering five, who had been on a raid to Blue Earth County, Minn., and had murdered the Jewett family; that he immediately ordered his party to attack the hostile raiders, which they did, and killed all of the same save one; that during the engagement the gun of "Itewayaka" or "One-armed Jim" bursted near the breech and tore off his left hand and a portion of his left arm, and that the same had to be amputated, and was amputated by an assistant surgeon of the United States Army, Dr. Farley, and that the said "Itewayaka" or "One-armed Jim" is now a resident of the Sisseton Reservation, in South Dakota, where this deponent also resides; and further this deponent saith not, except that he makes this affidavit to enable the said "One-Armed-Jim" to go upon the pension roll of the United States at the same rate as an enlisted man in the United States Army for a similar wound.

TWO STARS.

Sworn to and subscribed before me on this — day of —, A. D. 1891.

_____,
United States Indian Agent, Sisseton Agency.

STATE OF SOUTH DAKOTA, *County of* ———, *ss:*

Ecetukiye, being first duly sworn, deposes and says that he has read the foregoing affidavits of Itewayaka and Two Stars, and that the facts therein narrated were deputed to him on the same day of the occurrence by Two Stars, who was in charge of said band of Indian scouts; and that the arm of Itewayaka was off at the time, and all the Indians in the scouting party concurred in the statement that it had been torn off by the bursting of his gun while engaged in battle with the raiding party of hostile Indians that had murdered the Jewett family; that he was chief of Indian scouts at the time, and had no doubt whatever of the correctness of the statement made in the affidavits aforesaid; that soon after the occurrence his inspector of scouts, Samuel J. Brown, gave a certificate to Itewayaka in the words and figures following, which he saw at the time, and has repeatedly seen since, viz:

SPECIAL MILITARY AGENCY,
Fort Wadsworth, Dak., April 2, 1866.

This is to certify that the bearer, Itewayaka, is a Sisseton Sioux Indian, and a true and tried friend of the whites; and that while on duty as a Government scout, and during a fight with hostile Indians in May last, his gun bursted and he suffered the loss of a hand; and that I was present and witnessed the amputation of his hand above the wrist, which operation was performed by Dr. Farley, of this post.

I trust that this faithful friend of the whites may always receive the kind treatment which he merits.

SAM. J. BROWN,
Inspector of Scouts, Acting Military Agent.

And deponent says that the foregoing statement is true, and that said wounded scout has always been a good and faithful Indian, observing all treaties and laws of both the Indians and whites, and that he earnestly requests that his name may be placed upon the pension roll of the United States at the same rate of pension per month as is allowed an enlisted man for a like disability or wound.

GABRIEL BENVILLE.

Sworn to and subscribed to before me on this — day of —, A. D. 1891.

United States Indian Agent, Sisseton Agency.

The bill is therefore reported back with the recommendation that it pass.



JULIA L. ROBERTS.

MARCH 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

R E P O R T :

[To accompany H. R. 6785.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6785) granting a pension to Julia L. Roberts, have examined the same and the evidence and report:

This bill in effect proposes to restore, at \$17 per month, the pension of Julia L. Roberts, of Pittsfield, Mass., as the widow of John M. Doty.

Dr. Doty served as an acting assistant or contract surgeon, United States Army—date when service commenced not shown—and is shown by a report from the Surgeon-General, United States Volunteers, to have died April 12, 1865, at general hospital No. 1, Annapolis, Md., of typhoid fever.

This claimant was pensioned as his widow by special act, but an act was passed later under the general provisions of which she was pensionable.

She was married September 4, 1875, to James H. Roberts, and her pension terminated.

She was married to Dr. Doty in 1852, and is 67 years of age.

She had only lived with Roberts four months, when she was obliged to leave him on account of abuse and nonsupport. Roberts died in May, 1889. She now has no property, income, or means of support except her own labor; was a war widow, and is of good character.

The bill is within the principle declared by this committee and approved by the House.

The bill is therefore reported back with the recommendation that it pass when amended, as follows:

Strike out all after the word "act," in line 8.

Amend the title so it will read: "A bill granting a pension to Julia L. Roberts."

FLAG OF THE ONE HUNDRED AND FOURTH NEW YORK INFANTRY.

MARCH 31, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. MARSH, from the Committee on Military Affairs, submitted the
following

REPORT.

[To accompany H. R. 9338.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 9338) to restore to the State of New York the flag carried by the One hundred and fourth New York Infantry, refer the same back to the House with the recommendation that the same do pass.

The Secretary of War, under date of March 26, 1898, reports that the flag of the One hundred and fourth New York Volunteer Infantry, appears as No. 117 on the list of recaptured Union flags now in the custody of the War Department. The Secretary adds:

The Department has no objection to the return of the flag to the State of New York.

The return of the flag is asked for by the surviving members of the One hundred and fourth New York Regiment who have organized themselves into an association. This flag was found in the city of Richmond after its evacuation.



THOMAS ROSBRUGH.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARNEY, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 1272.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1272) entitled "A bill for the relief of Thomas Rosbrugh," beg leave to submit the following report, and recommend that said bill do pass without amendment.

This bill was before the Fifty-third Congress, and was favorably reported from the Committee on the Public Lands; and the same bill was also before the Fifty-fourth Congress, favorably reported by this committee, and passed by the House without amendment.

It is identical in terms with the act approved June 6, 1894, for the relief of Wesley Montgomery (private law No. 18, second session Fifty-third Congress), and is so palpably just as to need no comment.

The accompanying Department letters relating to the same bill when before the Fifty-third Congress set forth the facts in the case very fully and are made a part of this report. A further statement in this report is deemed unnecessary.

DEPARTMENT OF THE INTERIOR,
Washington, February 1, 1895.

SIR: I transmit herewith report from the Commissioner of the General Land Office on House bill 8358, for the relief of Thomas Rosbrugh.

I have no objection to urge against the passage of the bill.

Very respectfully,

HOKE SMITH,
Secretary.

HON. THOMAS C. McRAE,
Chairman Committee on the Public Lands, House of Representatives.

JANUARY 24, 1895.

SIR: I am in receipt, by your reference of January 18, 1895, for report in duplicate and return of paper, of House bill 8358, for the relief of Thomas Rosbrugh, which was transmitted to your Department by Hon. Thomas C. McRae, chairman of the

Committee on the Public Lands of the House of Representatives, with the request for an early report thereon, with such suggestions and recommendations in reference thereto as you may see proper to make.

The bill provides—

“That the Commissioner of the General Land Office be, and he is hereby, authorized and required to permit Thomas Rosbrugh, of Saint Clair County, Missouri, to enter eighty acres of public land, subject to entry under the homestead or settlement laws, not mineral nor in the actual occupation of any settler, in lieu of the south half of the southeast quarter of section twenty-four in township thirty-eight of range twenty-seven west, in Saint Clair County, Missouri, which land was entered by said Thomas Rosbrugh on December twenty-first, eighteen hundred and sixty-nine, under the homestead laws, said entry being reported to be without conflict by instruction of the Commissioner of the General Land Office of the date of January twenty-second, eighteen hundred and seventy, the title to which land failed because of a prior disposition of the same which did not then appear upon the records of the Land Office: *Provided, however,* That the said Thomas Rosbrugh shall not have made any other entry of land of the United States under the homestead laws: *And provided further,* That a final certificate and patent shall issue to the said Thomas Rosbrugh, or his legal heirs or representatives, upon such entry as he may make hereunder without proof of residence and cultivation.”

In reply I have the honor to report that the records of this office show that military bounty land warrant No. 29031 (R. and R. No. 414), act of February 11, 1847, issued in the name of Daniel Baker, was located by his assigns July 25, 1847, at the local land office at Clinton, Mo., on the S. $\frac{1}{2}$ of lot No. 2 of SW. $\frac{1}{4}$ of sec. 19, T. 38 N., R. 26 W., and S. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, and NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ sec. 25, T. 38 N., R. 27 W., and that patent issued thereon August 10, 1850.

Notwithstanding this fact, Thomas Rosbrugh was allowed to make homestead entry No. 7199, December 21, 1869, at Boonville, Mo., for SE. $\frac{1}{4}$ sec. 24, T. 38 N., R. 27 W., which was in conflict as to S. $\frac{1}{2}$ SE. $\frac{1}{4}$ with the above patented location. He made final proof on his entry October 27, 1876, which showed a residence of six years four months and six days, and the following improvements: Log house 18 by 20, one and one-half stories high, kitchen 16 by 18, smokehouse 12 by 14, stable 14 by 16, granary 8 by 6, an orchard of 651 fruit trees, 22 grapevines, and a root house 10 by 12. Final certificate No. 2437 issued thereon October 30, 1876.

Not until after Rosbrugh had made final proof on his entry was it discovered that his said entry was in conflict with the prior warrant location, whereupon, by office letter of December 28, 1876, his entry was held for cancellation as to the part in conflict. In this decision he was allowed the right of appeal, and also given the privilege of retaining the N. $\frac{1}{2}$ SE. $\frac{1}{4}$ of said section as his entry, or of having the entire entry canceled with the right to make another homestead entry, with credit for fee and commissions already paid.

Under date of January 30, 1877, my predecessor wrote Rosbrugh as follows:

“You appear to be the subject of a real hardship, and I deeply regret the omission of the person who, in 1849, failed to properly post the conflicting warrant location in our records, which omission has led both you and this office into error, but I am powerless to comply with your wish. The said S. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, T. 38 N., R. 27 W., was duly patented as stated, and I find on examination that the certificate of location is clear in describing the S. $\frac{1}{2}$ lot 2, SW. $\frac{1}{4}$ sec. 19, T. 38 N., R. 26 W., and S. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, and NW. $\frac{1}{4}$ NE. $\frac{1}{4}$ sec. 25, T. 38 N., R. 27 W., 156.90 acres, therefore the S. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, T. 38 N., R. 27 W., can not be patented to you.

“There is no provision of law under which the United States can reimburse you for the improvements you have made on the portion of your homestead about to be canceled. You say that the N. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, T. 38 N., R. 27 W., is worthless land and you can not accept it as your homestead. The entire entry may then be canceled and you can make another homestead entry of any other public land subject to entry, with credit for the fee and commissions already paid.”

On November 4, 1886, the register reported that no appeal had been taken from the decision holding the entry for cancellation, whereupon, by Letter C, of November 23, 1886, Rosbrugh's entry was canceled in its entirety.

On March 8, 1887, Rosbrugh purchased, under the act of June 15, 1880 (per C. E. No. 42719), the N. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, T. 38 N., R. 27 W., paying therefor \$86, he being allowed credit for \$14, which was paid on his said homestead entry as fee and commissions. This cash entry was patented May 7, 1888.

It appears from the foregoing that through the inadvertence of this office and of the local officers in not noting on the tract books the before-mentioned warrant location, that Rosbrugh was led into the error of making entry for lands a part of which had been patented under a prior claim, and that after a residence of over six years, and after he had made valuable improvements, his entry was finally canceled in its entirety, although it was first held for cancellation only as to part thereof.

Three months after the cancellation of the entry Rosbrugh purchased the N. $\frac{1}{2}$ SE. $\frac{1}{4}$ sec. 24, T. 38 N., R. 27 W., said tract being that portion of his former entry which

was not in conflict with the warrant location. He paid therefor \$86 in cash and was allowed a credit for \$14, which amount he had paid as fee and commissions on his said former entry, making a total of \$100.

The period of his residence on said homestead and the improvements made thereon did not profit him anything.

In view of the fact that Rosbrugh, through no fault of his, failed to secure title to the land entered under the homestead law, and that he had shown sufficient residence and improvements thereunder prior to the cancellation of his entry to entitle him to patent thereon, I am of opinion that if he furnishes satisfactory proof that he has not since the date of his said former entry perfected a homestead entry, he should be granted the relief provided for in the attached bill.

For the reasons stated, I see no objections to the passage of said bill, which is herewith returned.

Very respectfully,

S. W. LAMOREUX, *Commissioner.*

The SECRETARY OF THE INTERIOR.

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MISSOURI, OKLAHOMA AND TEXAS RAILWAY COMPANY.

APRIL 1, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STEPHENS, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 7743.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 7743) to authorize the Missouri, Oklahoma and Texas Railway Company to construct and operate a railway through the Indian Territory and Oklahoma Territory, and for other purposes, having had the same under careful consideration, beg leave to report the bill back, with the recommendation that it do pass, with the following amendments:

In section 1 strike out lines 10, 11, 12, 13, and that portion of line 14 to and including the word "Territory," and insert in lieu thereof the words "a point on the south boundary line of the Indian Territory, north or northeast of the town of Henrietta, Texas, and west of the point where the Chicago, Rock Island and Pacific Railroad crosses the same."

In section 2, line 15, after the word "be," and before the word "sold," insert the words "leased or."

In line 19 of the same section, after the word "be," and before the word "used," insert the word "so."

In section 5, line 25, after the word "provisions," insert the words "except as to annual tax."

In line 31 of the same section, after the word "him," strike out the word "to," as surplusage.

In lines 44 and 45 of the same section, strike out the words "the Indian Territory," and insert in lieu thereof the words "said Territories."

In section 6, page 9, strike out all of lines 6, 7, and 8 except the word "*Provided*," in line 8.

In section 8, page 10, line 3, strike out the words "within three years," and insert in lieu thereof the words "each year."

And in line 4 of said section, strike out the word "five," and insert in lieu thereof the word "four."

JOSEPH R. MATHERS.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6388.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6388) granting an increase of pension to Joseph R. Mathers, have examined the same and the evidence and respectfully report:

This bill as amended proposes to increase from \$6 to \$24 per month the pension of Joseph R. Mathers, of Buckhannon, W. Va., who served from June 25, 1861, to July 6, 1864, as private, Company A, Third West Virginia Volunteer Infantry, when honorably discharged.

The records show him to have been treated while in service for "hemorrhoids," paronychia, inflammation of lungs, rheumatism, and bronchitis.

He filed and established a claim for partial loss of right thumb, and was pensioned therefor at \$2 from date of discharge, and was increased to \$4 from October 22, 1885, and to \$6 from March 25, 1891.

He claimed pension for disease of heart, but said he first noticed it about 1877, and the claim was rejected on that ground.

At an examination by a board of United States surgeons July 20, 1892, he was rated six-eighteenths for thumb, four-eighteenths for heart, and four-eighteenths for catarrh. At another examination, August 15, 1894, the board said:

We find loss of distal joint of right thumb. No disease of heart. No nasal catarrh. Is not well nourished. Muscles atrophied and flabby. Palms normal. General appearance denotes anæmia. Has the old man's pace or shuffle, and is very much debilitated. Articulates with difficulty. Complains of numbness of left arm, side, and leg. Has fallen several times while walking on the street. His movements are feeble and he is easily fatigued. Coordination of movements in walking is impaired and exaggerated in the dark or with eyes closed.

This claimant up to five years ago was an active, muscular man. About that time he became very dissipated and continued in this condition up to about one year ago, since which time he has abstained entirely from intoxicants and during the last year has lost all of his activity and muscular power and is now a physical wreck.

The following unsworn statement shows claimant's present physical condition:

BUCKHANNON, W. VA., *January 24, 1898.*

We, the undersigned, physicians resident in the town of Buckhannon, do hereby certify that we are well acquainted with Dr. J. R. Mathers, of this city, and know

him to be suffering from posterior spinal sclerosis, and has been for several years, the result of which at this time totally incapacitates him from mental or physical labor and requires the constant attention of someone all the time.

Very respectfully,

JOHN T. HUFF.
G. A. NEWLON.
R. A. REGER.

Claimant appears to be 67 years of age, and his financial condition is not shown.

From these facts your committee is of the opinion that about one-half of the soldier's disabilities are of service origin; not all. If they were he would be entitled to nearly \$50 under the general law. An increase to \$24 per month is fully justified.

The bill is therefore reported back with the recommendation that it pass as amended.

Gen. George R. Latham, of Buckhannon, W. Va., being duly sworn, deposes and says:

I live in the same town with J. R. Mathers and am well acquainted with his financial and physical condition. Physically he is unable to get out of bed, and financially he is entirely destitute. He has neither real nor personal property, and no income or means of support except that rendered by his daughter, and his wife is an invalid.

GEO. R. LATHAM.

Sworn to and subscribed before me this 30th day of March, 1898.

GEO. W. RAY,
Chairman Committee on Invalid Pensions.

BUCKHANNON, W. VA., *January 24, 1898.*

We, the undersigned physicians, resident in the town of Buckhannon, do hereby certify that we are well acquainted with Dr. J. R. Mathers, of this city, and know him to be suffering from posterior spinal sclerosis, and has been for several years, the result of which at this time totally incapacitates him for mental or physical labor and requires the constant attention of someone all the time.

Very respectfully,

JOHN T. HUFF.
G. A. NEWLON.
R. A. REGER.
S. C. RUSMISELL.

BUCKHANNON, W. VA., *January 23.*

DEAR SIR: Allow me to return to you my sincere thanks for the interest you have taken in regard to my husband's pension and for the punctual resolution in getting your bill for relief before the House. May God grant that it may soon pass, and you, who are so deserving shall have my prayers for your everlasting welfare. Accept the entire family's blessing for your kindness, and I hope shortly to get a favorable report from you. Please don't let it die the death so many such bills do, and I feel satisfied that on your part no such thing will occur.

I send you the physicians' reports of my husband's condition to enable you to push it through.

Very respectfully,

LINA MATHERS.

Hon. DORR.

JAMES C. KINKLE.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6242.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6242) granting a pension to James C. Kinkle, have examined the same and the evidence and report:

This bill as amended proposes to restore to the pension roll, at \$12 per month, James C. Kinkle, of St. Paul, Minn., who served as an acting assistant or contract surgeon, United States Army, from September 27, 1864, to August 19, 1865, when his service was honorably terminated. He filed and established a claim under the act of June 27, 1890, and was pensioned thereunder at \$12 per month from October 9, 1890, until January, 1895, when his name was dropped from the rolls, under the decision in the Andrew J. Shannon case, on the ground that his was not a pensionable service.

When examined in 1891 he was rated six-eighteenths for varicose veins, eight eighteenths for piles, and eight-eighteenths for rheumatism. That was more than six years ago, and he is now over 71 years of age and his disabilities, of course, greater than they were at that time.

This committee has frequently declared that in its opinion service as acting assistant or contract surgeon is pensionable under the act of June 27, 1890, the decision of the Secretary to the contrary notwithstanding, and in that opinion has been sustained by the House.

This bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 4 strike out the word "Doctor."

In line 5 strike out the word "again," also, the words "of the United States" and the word "to."

In line 6 strike out the words "Doctor James C. Kinkle" and insert in lieu thereof the word "him."

Strike out all after the word "month" in line 7.

Amend the title so as to read, "A bill granting a pension to James C. Kinkle."

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PROCEDURE IN CERTAIN PENSION CASES.

APRIL 1, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 80.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 80) providing procedure in certain pension cases, respectfully submit the following report:

This measure seeks to prevent any pension from being withheld, suspended, modified, or canceled when once the same shall have been adjudicated and allowed, except for fraud, clerical error, mistake of fact, or recovery from disability. In the event any effort is made to seek a modification, cancellation, or suspension of any such pension, some responsible person must first make declaration in writing of the causes why such pension should be so modified, canceled, or suspended, and the pensioner shall be allowed an opportunity to be heard. The procedure for the investigation of any such proposed modification is simple, direct, and just. The machinery of the Pension Department already in force in the division of special examination takes charge and prosecutes such investigation by directing an officer of the Department already in the field to proceed to the town nearest the residence of the pensioner, and there, by depositions, reduce to writing all information that he may find both for and against the proposition of such proposed modification, cancellation, or suspension of said pension. This examination is had after due notice to the party and witnesses in interest, and may be pursued in any locality where any witnesses may reside. Such evidence shall then be reported to the Department, where it is considered and passed upon under the direction of the Commissioner of Pensions.

No additional officers of the Government are provided for by the bill. No additional expense other than that already provided for the expense of the special examination division is intended, and no pension which has heretofore been modified, suspended, or canceled is sought to be restored by this bill. The clear and avowed purpose of the measure is to put at rest all further anxiety and disturbance of mind of pensioners who may fear that they may be called upon without proper notice and time

in which to defend the pensions which have already been granted them. It guarantees to the survivor of the rebellion, whose average age is now about 60 years and who holds a certificate of the Government entitling him to a pension, that security and peace of mind which should come to him in his declining years.

No effort is sought to evade the right of the Government to modify, suspend, or cancel any pension where the same has been obtained through fraud, or where an honest mistake of fact on which such allowance was based has been made, nor where there shall be a recovery from the disability. But where the pensioner has been granted his certificate after a thorough investigation on the part of the Government, who has required the most careful investigation of all evidence by different boards, it is only just and right that the burden of proof should shift to the shoulders of the Government when it seeks to modify, cancel, or suspend the finding which she herself has already entered.

It must be remembered that when these claims have once been allowed all the papers and every line of testimony is retained in the files of the Department, and the pensioner himself holds nothing but his certificate. Even the witnesses who have furnished this evidence have in a great majority of cases become scattered, taking up their abode in their old age with their children, losing their identity among their comrades, or have died. The pensioner himself has dismissed from his mind all knowledge of details upon which his claim was originally based, and in too many instances, by reason of age and the very disabilities for which he is pensioned, has lost his mental vigor, and is no longer able to conduct a second case in defense of his claim. Such being the well-established facts, the Government can not afford to place upon his shoulders the responsibility and burden of defending his right to the claim whenever called upon.

The procedure provided by the bill requiring that such investigation shall be conducted by question and answer and allowing the party affected to be confronted by his accuser in the light of day, as in all ordinary tribunals of justice, is fair and honest, and is no more than what the Government should do in such cases.

Your committee, having carefully considered the bill, respectfully report the same back to the House with the recommendation that it do pass with the following amendments:

Strike out in line 23, page 2, after the word "the," at the beginning of said line, the following: "county seat of the county in," and insert in lieu thereof the following: "town or post-office nearest."

Also insert after the word "and," in line 24, page 2, the following: "at his residence, if he is unable to leave the same, and."

AMENDING SECTION 1176, REVISED STATUTES.

APRIL 1, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NORTON, from the Committee on Invalid Pensions, submitted the following

R E P O R T.

[To accompany H. R. 6903.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6903) to amend section 1176 of the Revised Statutes, submit the following report:

The object of legislation is to secure exact and equal justice to all beneficiaries of laws enacted for the benefit of a certain class. The object of this bill is to amend the present statute so as to embrace a certain class of beneficiaries, as was evidently the intention of the law when enacted.

As the law now is, it requires proof, record evidence, affidavits of two comrades or an officer, to establish the incurrence of rupture "while in line of duty." The only object of this bill is to do away with this requirement of proof of incurrence while "in line of duty." All other requirements of the present law are retained. This bill does not contemplate to furnish a truss to a soldier unless he has been examined by a regular board of examining surgeons by an order from the Commissioner of Pensions and is reported in the regular way under the present regulations and restrictions of the Pension Bureau as being entitled to a pension for hernia. It makes no change in the present law in this regard.

While it is impossible to give the exact number who will be benefited by this bill, it is an absolute certainty that the number will be small.

It has been said that all who suffer from this disability and are pensioned under the law of June 28, 1890, would be furnished with trusses. This is far from being true. Nine-tenths of those pensioned under the law of 1890 and who are ruptured also allege other disabilities, and unless the board of examining surgeons have certified specifically that the pensioner is disabled from performing manual labor on account of hernia he would not be entitled to a truss under this law, so that those who would become beneficiaries under the act of 1890 would be very few in number and constantly growing less.

It is safe to say that not one in ten who is now suffering from rupture and who is pensioned under the act of 1890 would be entitled to a truss under this bill. The object of this bill is to secure the benefit of this law to the class of sufferers for whom the law was originally intended, viz, the old veterans who contracted this disability while in active service and in line of duty, but who can not furnish the necessary proofs of incurrence, as required under the stringent law as laid down by the rules of the Pension Bureau.

It is a well-known fact that the most faithful old veterans, who refused to go to the surgeon at every sick call, who refused to go to the hospital for every little ailment, and thus make a record by which they could now furnish the required proofs under the law as at present, can not obtain the benefits of this act.

It is true the number is not large, but it will not be controverted that everyone who will be benefited by this bill is a sufferer from an incurable, permanent disability, and that this mere pittance provided for in this bill would furnish more real and meritorious relief than any other bill now before Congress.

As to the actual cost to furnish the additional charge provided for in this act, we can only estimate from what it has cost up to this date and the probable number benefited by this bill.

From actual amounts found in the official reports of the Surgeon-General, we find that the law was passed and went into effect in 1872, twenty-eight years ago. In these twenty-eight years the Government has furnished 11,257 trusses, or 402 trusses in every year, at a total cost of \$146,500 in the twenty-eight years, or an average cost of \$5,235.71 every year. The maximum cost for any one fiscal year was in the year ending June 30, 1891, viz, \$13,031.95, but this amount has gradually decreased until now. In the year 1894 the amount expended for trusses under the present law, as shown by the Surgeon-General's report, was only \$7,416.79. It is a fair and liberal estimate that under no possible contingency or probability could this amount of annual cost exceed double the present charge. The average as stated is only \$7,416.79 per annum; so that in no event can this amendment cost the Government to exceed \$14,833.58, total cost, or the additional maximum cost of this bill would only amount to \$7,416.79.

There is a class of pensioners of doubtful merit, according to the opinion of some, who are now drawing \$20 per day. The amount of pensions allowed this class every eight hours every day would pay the amount contemplated by this bill for a whole year. No one doubts the merit of this class, who suffer constantly, and to whom this pittance would be a great relief.

For information as to how these trusses are furnished, we give the following:

[Circular relating to the issue of trusses to pensioners of the United States.]

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
Washington, D. C., January 31, 1894.

I. Under the provisions of sections 1176, 1177, and 1178 of the Revised Statutes, as amended by the act of March 3, 1879 (Suppl. R. S., p. 450), and Statutes 1891-1893, page 600, every person who has been disabled by rupture "*while in the line of duty*" in the military or naval service of the United States is entitled to receive a single or double truss of such style as may be designated by the Surgeon-General of the United States Army as best suited to his disability; and whenever a truss so received becomes useless from wear, destruction, or loss, another truss is furnished upon proper application therefor, provided that such application is not made more than once in two years and six months. *The receipt of a pension on account of hernia is the only evidence this office will accept that the disability was incurred in the line of duty.* Trusses will

therefore be issued to such applicants only as are receiving pensions, either wholly or in part, on account of rupture.

II. A pensioner of the United States who desires a truss should apply to the nearest examining surgeon for pensions, who will attend to the business for him. Should there be no pension examining surgeon within easy reach of the pensioner he should write to the Surgeon-General, stating that fact, when special arrangements will be made. The examining surgeon will fill out the application for the pensioner and forward it to this office, taking care to indicate upon it the size and *style of truss best suited to the case, and giving also the name and address of the manufacturer*. The truss called for will be procured and sent to the examining surgeon, who will fit and deliver it to the pensioner and *take his receipt therefor on the form transmitted to him along with the truss*.

III. A fee of \$3 is allowed for examining an applicant, preparing the application, and fitting and delivering the truss. When a receipt for a truss is received at this office proper vouchers will be prepared and sent to the examining surgeon, who will sign the certificates and receipts and return them to the Surgeon-General, after which a check for the amount will be transmitted. It is desired that each board of examining surgeons for pensions will designate one of its members to attend to applications for trusses and to receipt for fees in his own name.

No allowance is made for transportation in connection with the examination or fitting, nor is commutation for trusses authorized in any case.

Blank forms of application for trusses may be obtained from this office.

GEO. M. STERNBERG,
Surgeon-General United States Army.

It is seen by the above circular that trusses are only furnished to pensioners, and that the kind best suited to his disability, in the opinion of the board of United States examining surgeons for pensions, who recommend the kind and style of truss best suited to his particular disability.

The Surgeon-General requires only that the truss dealers furnish the trusses recommended by the local boards and be furnished to the Government at the lowest wholesale prices. No preference or favoritism is given to any particular truss or truss dealer. Suitability to every individual case, in the opinion of the local board of examining surgeons, control entirely, and in this manner it is impossible to make any discrimination in favor of any particular truss or give a monopoly to any dealer. The competition is open and perfectly fair to all dealers.

In view of all these facts it seems to your committee it would justify this great and beneficent Government to at least not discriminate against its most meritorious, suffering, and bravest soldiers in denying the small and well-directed amount, which will be a comfort and great relief to every beneficiary, and therefore your committee earnestly recommend that this bill do pass.

The history of the United States is a story of growth and change. From the first settlers to the present day, the nation has evolved through various stages of development. The early years were marked by exploration and the establishment of colonies. The American Revolution led to the birth of a new nation, and the subsequent years saw the expansion of territory and the growth of industry. The Civil War was a pivotal moment in the nation's history, leading to the abolition of slavery and the strengthening of the federal government. The late 19th and early 20th centuries were characterized by rapid industrialization and the rise of big business. The Progressive Era brought about significant reforms in government and society. The 20th century has been a period of great change, with the United States emerging as a world superpower. The Cold War era saw a period of tension with the Soviet Union, while the latter half of the century has been marked by social and cultural movements that have shaped the modern United States. Today, the nation continues to face new challenges and opportunities, and its history remains a source of inspiration and guidance for the future.

GRANTING CERTAIN LAND TO ALABAMA STATE NORMAL
COLLEGE.

APRIL 1, 1898.—Committed to the Committee of the Whole House on the state of the
Union and ordered to be printed.

Mr. KLEBERG, from the Committee on the Public Lands, submitted the
following

REPORT.

[To accompany H. R. 8489.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 8489) granting a township of land for the use of the Alabama State Normal College, having considered the same, make the following report:

The Alabama State Normal College at Florence was established by an act of the legislature of Alabama, and has been maintained as a first-class institute and college, where pupils may acquire a thorough normal-school education. It has now an attendance of 300 students, which, with the requested assistance, could be increased to between 500 and 1,000.

The college has been the means of educating hundreds of young persons, who have not only been benefited themselves by this opportunity for their education, but are devoting themselves to the profession of teaching and assisting in promoting and improving the efficiency of the schools of the State. The curriculum is of a very high grade. The establishment and maintenance by the State of a college of this character is deserving of the highest commendation, and where a grant, as here requested, that does not require the appropriation of any money, nor of anything that will avail to produce money for the Treasury, will contribute so much to encourage as well as materially benefit the institution, it ought to be made.

The Agricultural and Mechanical College, for negroes, at Normal, Ala., is educating the colored people of Alabama and adjoining States in the mechanical and agricultural arts and preparing them to be efficient teachers.

The passage of this bill will enable them to take lands which have been offered to the public for seventy years without purchasers, and by their energy they will bring them into the market and be enabled to double the number of scholars and usefulness of this school.

The evidence before the committee shows that the efforts of Prof. William H. Councill and those of Prof. Booker Washington are accomplishing most extensive and beneficial results to the colored race, making them useful citizens, who by their skilled labor are adding to the wealth of the country.

Your committee recommend that the bill, with the following amendments, do pass:

In section 1, after the words "United States," insert the words "not held for public purposes."

In section 2, after the words "United States," insert the words "not held for public purposes."

The bill as amended reads as follows:

Be it enacted, etc., That the governor of the State of Alabama be, and he is hereby, authorized to select, out of the unoccupied and uninhabited lands of the United States not held for public puposes within the said State, twenty-five thousand acres of land, and shall certify the same to the Secretary of the Interior, who shall forthwith, upon receipt of said certificate, issue to the State of Alabama patents for said lands: *Provided*, That the proceeds of said lands when sold or leased shall forever remain a fund for the use of the Agricultural and Mechanical College of Alabama, for negroes.

SEC. 2. That the governor of the State of Alabama be, and he is hereby, authorized to select, out of the unoccupied and uninhabited lands of the United States not held for public purposes, within the said State, twenty-five thousand acres of land, and shall certify the same to the Secretary of the Interior, who shall forthwith, upon receipt of said certificate, issue to the State of Alabama patents for said lands: *Provided*, That the proceeds of said lands, when sold or leased, shall forever remain a fund for the use of the State Normal College, at Florence, Ala.: *And provided further*, That this grant to the State normal school shall be in full settlement and payment for all property belonging to said State Normal College or its predecessors, destroyed by Federal troops during the war, and shall be received by said State Normal College in full satisfaction of all such claims.



ENLISTMENT BY VETERANS OF THE LATE WAR, ETC.

APRIL 1, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9598.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9598) entitled "A bill to encourage enlistments by veterans of the late war during the anticipated war with Spain," have fully considered the same and respectfully report:

The object of this bill is to secure early enlistments in the Army and Navy of the United States, in case enlistments are invited by the Government, by those who are able-bodied and bore arms on either side of the conflict in the late civil war.

In case of war the services of capable and experienced men are much more valuable than those of equal patriotism and valor who have not been baptized in the fire of battle. Recent events make it more than probable that considerable additions to our land and naval forces will soon become necessary.

Within 70 miles of our shores lies a beautiful and fruitful island with a population composed of intelligent and liberty-loving human beings, entitled to be treated as such. This island is ruled by Spain and has been since the discovery of the Western Continent by Christopher Columbus. Whenever the attention of Spain has been diverted from this colony the people have prospered and made rapid advancement; but no sooner has considerable progress been made in civilization and the accumulation of wealth than the oppressive hand of the mother country has been placed on this people and oppression of the men and brutal and bestial outrage of the women has followed, while every form of taxation has been resorted to to rob the people of the fruits of their toil and keep them in a condition of abject servitude.

This oppressed people has struggled for a good government, which has been repeatedly promised but never given. A few years ago a Cuban rebellion promising success was only subdued by pledges of reform, but no sooner had the rebels laid down their arms than every promise was broken, every assurance disregarded, and every form of outrage resorted to.

In the struggle for liberty now in progress this people has been subjected to almost every form of barbarity. The men have been treacherously murdered, the fair women and beautiful girls have been the victims of the lust of brutal Spanish soldiers, and finally the old men, the women, and children have been herded like cattle and then starved. It is stated to-day that Spain now promises to turn these weak people into the barren and desolate fields to secure food if they can. If they go now it is to die in the open woods and swamps, for food is not to be had.

Those whose words are not doubted, and recently from the island, tell us that haggard, starving mothers sit with their starved and dead babies in their arms, waiting for liberty or death, while Spanish fiends gloat over their misery. Mere boys, who shout for liberty, are shot by Spanish soldiers. This is but an incident in Spain's mode of exterminating a people she can not conquer. The United States will permit no interference by any European power. The time is at hand when she herself must interfere, for true Americanism can tolerate no more of this barbarity. But a few weeks since a magnificent warship of the American Navy made a friendly visit to the harbor of Havana. She was taken in charge by a Spanish pilot, an officer of Spain, conducted to an anchorage but little used, and placed directly over a submarine mine planted by Spanish officials, and the exact location of which must have been known to the Spanish Government.

The representative of the Spanish nation in Washington, while beguiling our Executive with smiles of pretended friendship and promises of immediate measures to end the horrible condition of affairs in Cuba, was writing and sending to Spain letters abusing the loved and respected Chief Magistrate of this Republic. Caught in the act, he was requested to quit our shores, but while he yet lingered there came the appalling news that "the *Maine* is blown up and hundreds of brave and patriotic seamen have been sent to the presence of their Maker without a moment's warning." Spain not only denies complicity in this crime that has no parallel in modern history, but denies the crime itself. She makes no effort to discover or punish the criminal, for she knows such effort, honestly made, will demonstrate to the world her own cowardly criminality and responsibility. Spanish officials alone had the means or knowledge necessary to secure the explosion of that mine beneath the *Maine*. Mines and powerful torpedoes do not float about Havana Harbor like bullheads in a pond.

It is true that the destruction of the *Maine* is but an incident of the whole transaction, but it is an incident of such magnitude and horror that the civilized world shudders at its mention. American blood has been shed and our American homes desolated. The feeling is widespread and universal that the hand of Spain must be taken from the throat of the Cubans. We are fully aware that the foot of that cruel, crafty, degenerate, and bigoted nation has never been planted on a foot of God's green earth but murder, misrule, outrage, and desolation have followed. The United States is the proper guardian of the rights of all the people of the Western Hemisphere, and is able and willing to insure a decent regard for the rights of mankind.

In this struggle Cuba has really won her independence. In open civilized warfare she has triumphed. War is terrible and to be avoided, if possible, without sacrificing national honor. It was once said, "War, pestilence, and famine are the three greatest calamities that can befall mankind." May it not be truly said that Spanish rule, war, pestilence, and famine are the four greatest calamities that can befall mankind, and that Spanish rule is the greatest of all wherever tolerated? Span-

ish rule is misrule. Can this nation tolerate these things? Our President insulted, our Navy blown up, our marines murdered by Spanish officials, our neighbors murdered, starved, outraged, and still no just cause for armed interference? A Spanish war fleet on its way here, and still no cause for action?

The verdict of the people of this nation has been rendered. It is approved by all thinking, reasoning, civilized human beings. Cubans murdered and starved on the land, and American seamen and sailors and marines murdered on the high seas!

Can we wonder that the men who "wore the blue" and those who "wore the gray" in 1861-65, and who know what war is, long to avenge these wrongs and make Cuba free?

This bill says that they may, when the time comes, without losing any right they now possess. All patiently wait the action of the Executive—our trusted President—hoping with him that diplomacy may win without a resort to arms, but in the meantime it is well to prepare for what may be inevitable, for Cuba must be free.

But very few will be benefited by the provisions of this bill, but every patriotic citizen and every veteran, South and North, will hail its passage with patriotic fervor as a measure of justice. If war comes it will cost blood and many precious lives will be sacrificed, but far better that men die in a struggle for liberty, to advance civilization, to overthrow tyranny, to save the lives of others, than that the extermination of a people be permitted by the slow and horrible process of starvation.

War will cost money, but those who pay the taxes where the flag of our Union floats will gladly toil both day and night to furnish the means to enable our Government to maintain its honor abroad, its self-respect at home, and guarantee life, liberty, and the pursuit of happiness to the people of oppressed and downtrodden Cuba.

The bill is reported back by a unanimous vote, and with the recommendation that it pass. Amend the title as indicated.



GEORGE F. MILLER.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. 1773.]

The Committee on Military Affairs, to whom was referred the bill (S. 1773) to amend the military record of George F. Miller, having had the same under consideration, report the same back to the House with the recommendation that it do pass.

The report of the Senate Committee on Military Affairs is hereby adopted and made a part of this report.

The Committee on Military Affairs, to whom was referred the bill (S. 1773) to amend the military record of George F. Miller, after careful consideration, report the same back with the recommendation that it do pass.

It appears from the records of the War Department that this soldier, under the name of George F. Young, jr., enlisted at the age of 14, on the 9th day of May, 1861, as a private in Company G, Second Regiment Excelsior Brigade, subsequently designated Company G, Seventy-first New York Infantry Volunteers, and was mustered into service June 28, 1861, to serve three years. It appeared that he served faithfully until March 18, 1862, when he is reported deserted. From the evidence of comrades corroborating the statement, under oath of the applicant, it further appears that the said George F. Miller, while stationed with his regiment at Sandy Point, Maryland, in March, 1862, was placed on the sick list because of an injury or sprain to his ankle received while at drill in the line of duty, and so remained until May 2, 1862, when his regiment was ordered to the peninsula of Virginia. The said Miller was then sent home as unfit for duty, where he remained until the close of the war.

The soldier further states that his furlough and discharge were to follow on his return home, but this never occurred. The testimony further shows that Miller was never fit for duty again at any time prior to the expiration of his term of enlistment; that, indeed, he has always been a sufferer more or less from the injury received, and is still at times forced to use a crutch or cane.

The committee believe that there is nothing in this soldier's record to show that he intended to desert, but that he was prevented from completing his term of enlistment by reason of disability contracted in the service. The extreme youth of the soldier alone, being a mere child of 14 years when he entered the military service, ought of itself to relieve him of the stigma resting on his name. His present reputation as a citizen is excellent.

The committee, in view of all the facts of this case, recommend the passage of the bill for his relief.

GEORGE E. MURPHY

Report of the Committee on the Administration of the War Department
to the House of Representatives

Presented to the House of Representatives
in the 66th Congress, 1st Session,
January 1919

REPORT

(Transmitted to the House of Representatives
January 1919)

The Committee on the Administration of the War Department
has the honor to acknowledge the receipt of the report of the
Committee on the Administration of the War Department
to the House of Representatives, January 1919.

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has the honor to acknowledge the receipt of the report of the
Committee on the Administration of the War Department
to the House of Representatives, January 1919.

JOHN PHELAN.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 6616.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6616) to correct the military record of John Phelan, deceased, submit the following report:

It is shown by the records of the War Department that John Phelan was enrolled September 18, 1862, and mustered into the service September 23, 1862, as a private in Company C, Third Massachusetts Infantry Volunteers, to serve nine months. He appears to have served faithfully to June 26, 1863, when he was mustered out with his company and honorably discharged the service. It is further shown that he reenlisted in Company F, Second Battalion, Fifteenth United States Infantry, August 2, 1863, and deserted August 31, 1866, at Vicksburg, Miss., and never returned to his command.

So far as it appears this soldier's service was entirely honorable and faithful in the last-named organization until August 31, 1866, a period of over three years.

The affidavit of Mary A. Phelan shows that the soldier was granted a furlough in June, 1866, and that when he returned home he was sick with fever and ague and disease of the heart, and physically unable to return to his command.

John Connors, on March 11, 1898, testified as follows:

That he was well and personally acquainted with the above-named John Phelan; he remembers well when the said soldier returned home on furlough in June, 1866; he was suffering from malarial fever and disease of the heart and was a constant sufferer for over three years; he was confined to his bed for weeks at a time and unable to dress himself; if it had not been for good nursing and good care he would not have lived as long as he did; he can truthfully say that the said soldier was not able to return to his command, and was unfit to perform the duties of a soldier; he was a constant sufferer from the above-named disabilities from 1866 to the day of his death.

Catherine F. McDermott, on March 11, 1898, testified as follows:

That the above-named soldier, John Phelan, returned home on furlough in June, 1866; he was troubled with malarial fever and disease of the heart; he was troubled

with the same over three years after his return on said furlough; he was unable to return to his command, and unfit to perform the duties of a soldier; he was troubled with the above-named disabilities from June, 1866, to the time of his death.

Mary A. Phelan, on March 11, 1898, testified as follows:

That she is the widow of the late John Phelan, who died in April, 1880; she is unable to furnish the testimony of the physician who treated her late husband, for the reason that he is dead.

This case seems to be one of very decided and exceptional merit. The records show faithful service for a period of very nearly four years, covering the greater part of the war of the rebellion, and for a period of a year and three months after the close of the war. The alleged desertion, therefore, occurred after the hostilities had ceased, and as the evidence indicates that the absence of the soldier from his command and failure to return were due to serious disabilities from which he was suffering when granted a furlough, and which must have been contracted in service, and which condition continued until after the expiration of his term of enlistment, the committee recommend that the bill do pass with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.



JOHN WILLOUGHBY.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3790.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3790) to remove the charge of desertion from the military record of John Willoughby, have had the same under consideration and beg leave to report as follows:

At the age of 17 years the claimant, John Willoughby, was enrolled August 28, 1861, as a private in Company L of the Third Regiment Ohio Cavalry. He served with that command until in August, 1862, when in a skirmish at Bradstown, Ky., he was captured by the enemy and paroled. He was sent to Camp Chase, Ohio, and in November, 1862, at his own application, he and others were transferred to Company C, Second Battalion, Eighteenth United States Infantry, for the unexpired term of his service as a volunteer. He performed faithful service in this command until February 11, 1864, when he reenlisted in the same company and took a veteran furlough for thirty days, returning to duty before the furlough expired. Claimant remained with his company, performing all his duties as a soldier faithfully, until the latter part of November, 1866, when the command was ordered from Fort Leavenworth, Kans., to Fort Kearney, Nebr.

He was sick when the command started on foot to Fort Kearney, but he went with them and remained with them until after the crossing of the Big Blue, which they waded, the weather being cold and snowing. This was about 150 miles from Fort Leavenworth. After crossing the Blue the disease which had troubled him a number of times during the service, and for which he had been sent to the hospital—rheumatism and partial paralysis of the lower limbs—came back on him and disabled him from keeping in line. He fell behind, in spite of his utmost efforts, and saw not only the command leave him, but the wagon train and ambulance, all of which passed him. He followed the trail the best he could until it became entirely obliterated by the snow. That then he wandered on over the treeless plain, without landmark of any

kind, until he came to a creek, when he attempted to build a fire, and failed. In going up from the bank of the creek he discovered a small hut in the timber and was fortunate enough to find it occupied. He was kept there during the night. It seemed as though he had been abandoned in the blizzard that prevailed to become food for the wolves.

Claimant was then too sick to travel, but he managed the next day to go 3 or 4 miles toward Maryville, when he was compelled to stop at the home of a man named Pike until the next day, when Pike took him to Maryville, where he was sick several days and under the treatment of a physician. Claimant was then taken by a farmer by the name of Hammett, evidently a good Samaritan, who lived 3 or 4 miles in the country, and he remained with him, most of the time unable to get out of bed and all of the time unable to leave the house, until the spring of 1867.

In February, 1867, claimant wrote to the first sergeant of his company, and also to the commanding officer of his regiment, stating where he was and what was his condition. Whether his letters were received he does not know, but he never received any reply.

Claimant remained at Hammett's until he was able to do light chores about the place that did not require much moving around. He has never, however, recovered fully from rheumatism and partial paralysis, and has never been able to stand erect or straighten out his legs. He has been prostrated more or less of the time every year since the terrible March in the winter of 1866. In 1885 his inability to walk or to help himself continued for a period of eight months.

Claimant remained at Maryville and vicinity until in 1873, when he went to near Ballards Fall, where he has since remained. He has never at any time attempted to conceal himself, nor has the committee discovered any other evidence of an intention to desert.

In view of all these facts, and the five years' faithful service of this boy, your committee report the bill favorably and recommend that it do pass, with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.



THOMAS W. O'BRIEN.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 2632.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2632) entitled "A bill to remove the charge of desertion from the military record of Thomas W. O'Brien," beg leave to submit the following report, and recommend that said bill do pass with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

This is a bill enacting that Thomas W. O'Brien be granted an honorable discharge.

The facts upon which this soldier relies for relief are as follows: He enlisted in Company D, Tenth Vermont Volunteers, August 1, 1862, and served faithfully to June 17, 1865, when he was discharged, and at once enlisted in Battery C, Fifth United States Artillery, for three years, being then but 19 years old. He participated in the following battles: Locust Grove, Virginia; Wilderness, Virginia; Spottsylvania, Va.; Totopotomoy, Va.; Cold Harbor, Virginia; Petersburg, Va.; Monocacy, Md. He was also confined in Confederate prisons as a prisoner of war from July 9, 1864, to February 24, 1865. His war service was most honorable, and one of which any soldier might feel proud. All of his officers speak of him in the highest terms and indorse this application. After his enlistment in the Regular Army he received a furlough, and while on such furlough was charged with a civil offense, arrested and confined by the civil authorities until after his term of enlistment had expired. It was while he was so confined by the civil authorities, and unable for that reason to rejoin his command, that the charge of desertion was entered against him.

Your committee believe that his long and meritorious service through the period of the war, his record in many severe battles, his suffering from a long term in Confederate prisons, and especially as he was permanently disabled, and the further fact that he did not in fact desert,

that he has for thirty years borne an honorable name as an upright and deserving citizen, his offenses should be condoned and this soldier should receive an honorable discharge. These facts are more fully set forth in the appended communications.

BURLINGTON, VT., *February 18, 1895.*

HONORED SIR: I ask you to please cancel or remove the charge of desertion standing against me in Battery C, Fifth United States Artillery, July 29, 1865, for reasons set forth in the accompanying paper signed by Bvt. Brig. Gen. William W. Henry, late colonel of the Tenth Vermont Infantry, and George E. Davis, late captain Company D, in said regiment.

I am, sir, very respectfully, yours,

THOMAS O'BRIEN.

Hon. DANIEL LAMONT,
Secretary of War, Washington, D. C.

BURLINGTON, VT., *February 19, 1895.*

SIR: We would most respectfully ask that the charge of desertion now standing against Private Thomas O'Brien, Battery C, Fifth United States Artillery, July 29, 1865, be removed or canceled for the following reasons:

(1) He had no intention of deserting, and did not know until October 20, 1894, that he was reported as a deserter.

(2) Because of his very good record of nearly three years' service in Company D, Tenth Vermont Infantry, 1862, to the end of the war.

(3) His sufferings as a prisoner of war in Confederate prisons, mostly in Danville, Va., from July 9, 1864, to February 24, 1865.

(4) Because of his bravery in the following-named eight battles: Locust Grove, Virginia, November 27, 1863; Wilderness, Virginia, May 5, 6, 7, 1864; Spottsylvania, Va., May 8 to 18, 1864; Totopotomoy Creek, Virginia, May 31, 1864; Cold Harbor, Virginia, June 1 and 3, 1864; Petersburg, Va., June 23, 1864; Monocacy, Md., July 9, 1864, where he fell through the railroad bridge (while in retreat with all of our Union troops), there being no floor on the bridge. When stepping upon the railroad ties his foot slipped, he fell 40 feet to Monocacy River beneath, striking his right knee upon a rock in the river, from which injury he has suffered intensely many years. He is compelled periodically to take his bed from one to six months each year. For this injury he was pensioned (certificate No. 470288), but this pension was cut off October 17, 1894, because of the charge of desertion July 29, 1865, of which the following is an explanation:

Thomas O'Brien enlisted in Burlington, Vt., August 1, 1862, for three years or the war, in Company D, Tenth Vermont Infantry, and was mustered into the United States service with his regiment September 1, 1862, and was honorably discharged from the same regiment June 17, 1865, to enable him to reenlist for three years in Battery C, Fifth United States Artillery, which he did. He was given a furlough for thirty days, and went to his home in this city.

On or about the 12th of July, 1865, he fell into the company of a bad character named William Hurley and a man named Martin Flanagan, and all three went on a spree and became intoxicated, during which the said William Hurley robbed a man named John Travers of about \$160 in money, dividing the money about equally with Flanagan and O'Brien.

It is claimed that the said Thomas O'Brien had no part in the robbery whatever, but was arrested with the other two men and his share of the money found upon his person. They were arrested on or about July 13, 1865, examined in police court, and all three were bound over to county court for trial. They were confined in county jail here; were tried October 2 to 6, 1865, and found guilty; October 7, 1865, were sentenced four years each in State's prison. It is claimed that Hurley committed the robbery, but the other two men were identified as with him at the time, and as one-third of the money was found upon the body of Thomas O'Brien he was found guilty as an accomplice.

No man acquainted with O'Brien believes that he had any part in the robbery except as indicated above.

By good conduct and by pardon from the governor, said O'Brien was released from prison after serving about three years and two months.

When released, O'Brien should have gone at once to Battery C, Fifth United States Artillery, and served the time for which he had enlisted, but, being an ignorant man,

he supposed that enlistment was canceled, as his time had already expired; and he had never drawn any money from the United States for that second enlistment, nor received any bounty.

He was under the mistaken idea that, because of enforced imprisonment and his inability to serve the time for which he enlisted, therefore he was released from his obligation.

The idea never occurred to him that he was a deserter. He would gladly have gone back in 1868 and served his time had he supposed it was acceptable or necessary. He would go now if not so disqualified by injuries received July 9, 1864, as before stated.

He came to this city, where he was best known; went to work; was sober, industrious; married a good woman; had 12 children, of whom 5 are now living. He has borne an excellent reputation here and in Hull, Canada, where he has lived seventeen years in the employ of one man, as appears by a letter sent herewith. He moved back to this city about June, 1893. He has been a total abstainer from the sale or use of intoxicating liquor in any form since his terrible experience in 1865. He is poor, owing to the frequent sickness in his family and his injured knee.

I have been acquainted with him since 1862. He was a faithful, brave soldier, obedient to orders, brave in battle.

For his own good record in the civil war; because of the mitigating circumstances herein mentioned, and for the sake of his wife and children, we pray you to remove from his record the charge of desertion.

Respectfully, yours,

GEORGE E. DAVIS,
Late Captain Company D, Tenth Vermont Infantry.

Hon. DANIEL LAMONT,
Secretary of War.

P. S.—I was an officer in Company D, Tenth Vermont Infantry, continuously from September 1, 1862 (muster in), to the discharge of the regiment June 22, 1865.

STATE OF VERMONT, *Chittenden County, ss:*

Personally appeared the above-named George E. Davis, who made oath to the truth of the foregoing affidavit; and I certify said affidavit was typewritten by him, and that he is entitled to the utmost credence as a witness and citizen, and that I have no interest in this claim.

Before me this 19th day of February, 1895.

[COUNTY SEAL.]

O. P. RAY, *County Clerk.*

BURLINGTON, VT., *February 19, 1895.*

I have no doubt that the facts as stated by Captain Davis are correct, and that this good soldier is entitled to your favorable consideration, from the main fact that he was one of my bravest and best soldiers, and I heartily join with Captain Davis in recommending him to your mercy.

Very respectfully,

WILLIAM W. HENRY,
Ex-Colonel Tenth Vermont Volunteers.

THE E. B. EDDY COMPANY,
Hull, Canada, May 2, 1893.

The bearer of this letter, Thomas O'Brien, has been in the employment of Mr. E. B. Eddy and of this company continuously for the last seventeen years, chiefly in the capacity of tender on the various planers in our large sash factory here.

We consider him a thoroughly reliable and competent man to run planers and give him this recommendation without any reservation whatever.

He is leaving our employ now solely for the reason that we have no work for him in his line, having converted our sash, door, and blind factory into a paper mill.

We can recommend him as a sober, careful, and industrious man.

THE E. B. EDDY COMPANY,
W. H. ROWLER, *Secretary-Treasurer.*

I certify that the above is a true and correct copy of the original letter now before me, and that in consequence of my many years' business acquaintance with the E. B. Eddy Company and Mr. Eddy, I know the handwriting of the signature to be genuine. I have often visited the Eddy mill in Hull, Canada, and have seen Mr. Thomas O'Brien there.

GEORGE E. DAVIS,
Late Captain Company D, Tenth Vermont Volunteers
(Now Treasurer of the Vermont Shade Roller Company).

BURLINGTON, VT., *February 19, 1895.*

[Vermont State prison, E. W. Oakes, superintendent.]

WINDSOR, *February, 1895.*

DEAR SIR: Your favor at hand, and I find the prison record shows one Thomas W. O'Brien was committed here October 12, 1865, and pardoned November 11, 1868, and was 19 years old when committed, 5 feet 5 inches, eyes gray, hair sandy.

Yours, respectfully,

E. W. OAKES, *Superintendent.*
Per H.

GEORGE E. DAVIS,
Burlington, Vt.

I certify that the foregoing are true and correct copies of the originals now before me.

ALICE L. WOOD.

BURLINGTON, VT., *December 6, 1895.*

○

WILLIAM P. BRASSINGTON.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 7561.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 7561) to correct the military record of William P. Brassington, report the same back with recommendation that said bill do pass with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The records of the War Department show that William P. Brassington was mustered into service July 6, 1861, as private in Company I, Fifth New York Infantry Volunteers, to serve three years, and that he deserted August 17, 1861; that on August 12, 1862, he reenlisted under the name of William B. Parkinson in Company K, One hundred and thirtieth New York Infantry Volunteers, and served faithfully until June 2, 1865, when he was honorably discharged the service. The fact that the date of the soldier's desertion from the Fifth New York Infantry and the date of his enlistment in the One hundred and thirtieth New York Infantry exceeded four months makes an act of Congress necessary to correct the record and to entitle him to an honorable discharge from the Fifth New York Infantry.

It appears that the soldier is dead; that only since his death has his widow discovered that her husband was charged with desertion, and for the purpose of correcting this record and thus removing the disgrace which naturally attaches to such a charge is this bill introduced.

The widow explains that at the outbreak of the war she and her husband were both under age; that she exacted from him a promise that if she married him he would not enter the service; that a few months after their marriage he enlisted in the Fifth New York and went with his regiment without her knowledge; that subsequently he obtained a furlough and returned to her, remaining at home after his furlough had expired; that afterwards, when they came to realize

the seriousness of his act, he reenlisted in the One hundred and thirtieth New York rather than to return to the Fifth New York, from which his name had been dropped; that for the purpose of concealing his identity he enlisted under the name of William B. Parkinson.

Your committee believe that, in view of the fact that the soldier reenlisted in August, 1862, before inducements had been offered in the way of bounties, and that he served faithfully until the close of the war, and was finally honorably discharged the service, the record of desertion from the Fifth New York should be corrected and an honorable discharge granted.

Your committee therefore recommend that the bill do pass.



LAWRENCE RESSLER.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 5046.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5046) to remove the charge of desertion from the military record of Lawrence P. Ressler, Company C, One hundred and ninety-sixth Pennsylvania Volunteers, and Company D, Two hundred and thirtieth Pennsylvania Infantry, recommend the passage of the bill with the following amendments:

Strike out the letter "P," occurring as the initial of the middle name in title of the bill and in line 5 of section 1 of said bill, and the letter "C," denoting the company, in line 6, and substitute the letter "I."

In line 8 strike out the word "thirtieth" and substitute the word "thirteenth."

At the end of line 10 insert the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The records show that Lawrence Ressler was enrolled July 6, 1864, and mustered into service July 20, 1864, as a private in Company I, One hundred and ninety-sixth Pennsylvania Infantry Volunteers, to serve one hundred days. He served faithfully until November 17, 1864, when he was mustered out with his company and honorably discharged.

February 22 he was enrolled, and mustered into service February 25, 1865, as a private in Company D, Two hundred and thirteenth Pennsylvania Infantry Volunteers, to serve for one year. He appears to have served faithfully until August 12, 1865, when it appears he left Camp Parole, Annapolis, Md., and was reported as a deserter. An unconditional pardon for desertion was granted him by the President April 22, 1879.

Ressler was born August 10, 1848, was consequently only 16 years of age at the time of first enrollment, and barely 17 years of age when he left the company of his second enlistment, in August, 1865, the war having ended the previous April.

JAMES A. STODDARD

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3071.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3071) for the relief of James A. Stoddard, have carefully considered the same and beg leave to report as follows:

James A. Stoddard was enlisted June 1, 1861, and mustered into service October 11, 1861, as a private in Company B, Eighth Wisconsin Infantry, to serve three years. He reenlisted January 2, 1864, as a veteran, to serve three years, and appears to have served faithfully until February 3, 1865, when he is reported to have deserted.

The circumstances of his alleged desertion, as given by the testimony of some five of his comrades, and which circumstances are practically confirmed by the report from the War Department, are as follows: While his regiment was at Iuka, Miss., about February 1, 1865, he was detailed for duty with a foraging party, and at the request of members of his mess he "captured" some knives and forks from a citizen.

Complaint being made to the commanding general, that officer ordered an investigation, at the same time remarking that he "would make an example" of the guilty man if he could be found. This threat of the general being construed by Stoddard into a fear of being shot, he ran away in an effort, as he believed, to save his life. When the President's proclamation of March 11, 1865, regarding deserters was issued he was at home, sick in bed, and so continued until the war was over.

The testimony of Stoddard's comrades on file shows him to have been a most brave and gallant soldier, who had participated in every battle in which his regiment was engaged, and that up to the time of committing this petty misdemeanor he had never been under arrest. There is also the testimony of citizens and neighbors that since the war Mr. Stoddard has been a most excellent citizen, having filled many positions of honor and trust by the choice of his fellow-men.

Your committee therefore very much regret that this brave soldier and excellent citizen should for so many years have been compelled to rest under this stigma upon his excellent military and civil record, and therefore report the bill favorably and recommend that it do pass with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

CAPT. THOMAS H. REEVES.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McDONALD, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 1845.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1845) to amend the record of Capt. Thomas H. Reeves, United States Army, retired, have had the same under consideration, and submit the following report, with the recommendation that the bill pass:

Thomas H. Reeves enlisted as a private in Company D, Fourth Tennessee Infantry, in 1861. In 1863 he was commissioned as a first lieutenant in the same regiment, and served with that regiment until August 2, 1865, when he was honorably mustered out as lieutenant-colonel. In recognition of his faithful and meritorious services during the war he was offered and accepted a commission as captain in the Thirty-ninth Infantry, United States Army. His commission as captain dates from July 28, 1866. On June 5, 1868, he was retired. The findings of the board which acted on the application of Captain Reeves to be retired were to the effect that he was incapacitated for active service on account of "disability not incident to the service." It is the object of this bill to amend the record so that it will appear that notwithstanding the findings of this retiring board Captain Reeves's disability is directly due to his military services.

The exhaustive report submitted by the Acting Judge-Advocate-General, which is made a part of this report, conclusively proves that the retiring board was confined in the scope of its examination to the period covered by Captain Reeves's service in the Regular Army. The precedents in force at that time were to the effect that disability incurred in the volunteer service was disability not incident to service in the Regular Army. These precedents have long failed to be recognized, and in determining the length of service of an officer of the Army who desires to avail himself of the act permitting officers to retire after a certain number of years' service the period of service in the volunteer Army is always counted.

The surgeons who examined Captain Reeves certified to the retiring board that they found him "suffering from phthisis pulmonalis, which, according to his own history of the case, commenced to be developed the 1st of June, 1867, when in line of duty at Ship Island." Notwithstanding this report, the board found that the incapacity was the "result of sickness which was not incidental to the service." It may be well to state in this connection that the post surgeon at Ship Island certified, December 14, 1867: "I have carefully examined this officer, and find that he is suffering from phthisis pulmonalis. His disease is attended by hectic symptoms and much emaciation, which symptoms are greatly aggravated by his remaining at or near the seacoast." When Captain Reeves applied for retirement he had served but three months at Ship Island. The Adjutant-General, in commenting upon the findings of the retiring board, says: "It is possible the retiring board meant, in reporting that his (Reeves's) sickness did not originate in the service, that, in their opinion, it did not originate after his entry into the Regular Army."

It is shown by the records, however, that when Captain Reeves was commissioned as a captain in the Thirty-ninth United States Infantry he submitted to an examination as to his physical and educational qualifications, and received a certificate from the examining board that he had passed a satisfactory examination. Captain Reeves testified before the retiring board that he "was in perfect health when commissioned in the Army in 1866, and that the first symptoms of his disease at Ship Island were occasioned, as he was advised by the post surgeon, by malaria and heavy fogs; that though he served during the war as a soldier and an officer from 1861 to 1865, he had had no symptoms of his present disease, although he had had an attack of pneumonia in February, 1862; that no member of his family, to his knowledge and belief, ever had consumption or any disease of the lungs." This testimony is supported by affidavits of two brother officers, who state that Captain Reeves was in good health, and that he suffered from no serious sickness which disqualified him for any length of time from active duty during the war.

The Judge-Advocate-General, in concluding his report, says: "No other material evidence as to the fact of disability was laid before the board. The testimony furnished, however, clearly made out a *prima facie* case of disability contracted in the service, even if the same were regarded to be commencing with the attack of pneumonia in 1862; for in the case of an officer who has come into the Regular Army directly from the volunteers, his service being substantially continuous, a disability initiated in the earlier period during the war is properly to be taken into account in considering the question of his retirement. The result, in my opinion, is that the conclusion of the board was not in conformity with the apparent facts of the case, or just to Captain Reeves."

Captain Reeves has on several occasions applied to the War Department for a correction of his record, but as there is no authority for a correction of this kind to be made, Congress alone can give the relief desired. The Paymaster-General reports that the correction of the record will not affect the pay of Captain Reeves. It is recommended that the bill be amended so that, notwithstanding the findings of the retiring board, the record shall be changed so as to show that Captain Reeves was retired for disability contracted in the line of duty.

In its amended form your committee recommend that the bill pass.

JONESBORO, TENN., November 17, 1892.

Capt. T. H. Reeves, U. S. Army, retired, renews his request, heretofore made and disapproved, that the order retiring him from active service be amended so as to specify that his disability was incurred in line of duty, and that the amended record be shown in the Army Register. Submits statement and papers in support of his application.

Report of the Adjutant-General of the Army on above application.

ADJUTANT-GENERAL'S OFFICE,
November 22, 1892.

Thomas H. Reeves was appointed captain in the Thirty-ninth United States Infantry in November, 1866. He had served in the volunteers as an enlisted man and later as an officer from 1861 to 1865. In December, 1867, he applied from his station, Ship Island, Mississippi, to be ordered before a retiring board, inclosing a certificate that he was suffering from phthisis pulmonalis and unfit for duty and could not remain on the seacoast without injury. In the same month he was ordered by Gen. Hancock, commanding the military district, before a medical board at New Orleans for examination. This board, composed of Surg. Bache and Asst. Surgs. Middleton and Thomson, reported:

"Capt. Thomas H. Reeves, Thirty-ninth United States Infantry, was examined by the board and found physically disabled for active duty by reason of confirmed phthisis pulmonalis. The duration of the disease can not be determined by the board, and the probability of recovery is doubtful."

He was ordered before a retiring board in New York, of which Gen. Philip St. George Cooke was president, and was examined in February, 1868. The finding of the board was that Capt. Reeves "is incapacitated for active service and that his incapacity is the result of sickness which was not incidental to the service." The medical officers, members of the board, certified that they found Capt. Reeves "suffering with phthisis pulmonalis, which, according to his own history of his case, commenced to be developed the 1st of June, 1867, when in the line of duty at Ship Island, and are of opinion that in consequence thereof he is incapacitated for active service."

The board made no explanation of its reason for finding that the incapacity of Capt. Reeves was not due to his service. The law does not provide for any revision of the finding of a retiring board. The President can either approve or disapprove the findings, but can not change them.

Section 17, act of August 3, 1861, provides:

"The [retiring] board, whenever it finds an officer incapacitated for active service, will report whether, in its judgment, the said incapacity results from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service. If so, and the President approve such judgment, the disabled officer shall thereupon be placed upon the list of retired officers, according to the provisions of this act. If otherwise, and if the President concur in opinion with board, the officer shall be retired as above, either with his pay proper alone or with his service rations alone, at the discretion of the President, or he shall be wholly retired from the service, with one year's pay and allowances."

The proceedings of the board in this case were, in February, 1868, submitted to Gen. Grant, who recommended that Capt. Reeves be retired "with his pay proper alone, in accordance with section 17 of the act approved August 3, 1861." This was approved and Capt. Reeves was placed on the retired list accordingly, by direction of the President.

The reduced pay, however ("pay proper alone," without the allowances which then formed part of the compensation of an officer on the retired or active list), continued only until the pay law of 1870 went into effect, for under that law officers retired on pay proper alone received the same salary as those retired with pay and allowances.

In 1874 Capt. Reeves applied, through Hon. R. R. Butler, M. C., for amendment of the official record so as to show him retired for incapacity caused by sickness incurred in the line of duty. The Secretary of War replied that the officer could be retired only in accordance with the finding of the retiring board.

In 1886 Hon. L. C. Houk, of the House Military Committee, at the instance of Capt. Reeves, was furnished a copy of the proceedings of the retiring board in his case, but it is not found that the committee took any action in the matter.

The cases of Capt. Huxford and Lieut. Halleck, to which Capt. Reeves refers, differ essentially from his. Capt. Huxford was found by a retiring board "incapacitated for active service, and for service in the Veteran Reserve Corps, by reason of epileptic fits resulting from a gunshot wound received at the battle of Malvern Hill, Va., July 1, 1862, while a private soldier in the Fourth Michigan Volunteers."

In like manner Lieut. Halleck was found incapacitated by reason of wounds received while an enlisted man in the volunteer service. In these cases the specific origin and cause of disability were set forth in the reports of the retiring boards, and the two officers were retired on "pay proper alone" under a ruling of the Secretary of War made in 1867, as follows:

"In this [case of Lieut. Hendee, incapacitated from wounds received in the volunteer service] and similar cases where an officer now in the Regular Army may be recommended by a retiring board to be placed on the retired list on account of wounds or sickness contracted before he was commissioned in the Regular Army he will be wholly retired with one year's pay."

This ruling was made on the assumption that, within the intent and meaning of the retirement laws, an officer's disability must be incurred in the regular service to entitle him to a place on the Army retired list. But the majority of the officers reported by the retiring boards as having incurred their disability before entry into the Regular Army were retired on "pay proper alone," as were Capt. Huxford and Lieut. Halleck, instead of being wholly retired.

In 1876 some of the officers affected by this ruling brought up the question of its propriety, and upon the recommendation of the General of the Army and the Judge-Advocate-General it was reversed, and the officers who have been retired "on pay proper alone," under the act of August 3, 1861, were regarded as entitled to places on the retired list, under other provisions of the same act, for disability incurred in the service. A copy of the order changing the status of Capt. Huxford on the retired list is herewith.

Capt. Reeves had served at Ship Island only about three months before applying for retirement. It is possible that the retiring board meant, in reporting that his sickness did not originate in the service, that in their opinion it did not originate after his entry into the Regular Army; but in the absence of any report or statement of the board to the effect that Capt. Reeves's disability was incurred in the volunteer service there is no official basis for a change of the record as it stands.

[First indorsement.]

WAR DEPARTMENT,
November 26, 1892.

Respectfully referred to the Acting Judge-Advocate-General. The facts would seem to justify the change asked for if the change can legally be made.

By order of the Acting Secretary of War:

JOHN TWEEDALE,
Chief Clerk.

[Second indorsement.]

WAR DEPARTMENT,
JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, D. C., December 2, 1892.

Respectfully returned to the Secretary of War, with the accompanying statement of the views of this office.

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

WAR DEPARTMENT,
JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, December 2, 1892.

SIR: Capt. T. H. Reeves (brevet lieutenant-colonel), retired, applies to have the record of his retirement, which, in the Army Register, is "disability not incident to the service," amended so as to read that the disability was incurred in the line of duty.

Capt. Reeves states that, having been in the volunteer service during the war, he was appointed captain, Thirty-ninth United States Infantry, in July, 1866, and was thereupon submitted to examination as to his physical and educational qualifications, and received a certificate from the examining board that he had "passed a satisfactory examination;" that being stationed with a part of his regiment as post commander at Ship Island in 1867, his lungs became seriously affected by the unfavorable climate and exposure to which he was subjected; that he accordingly applied for and received a leave of absence, during which he was treated medically, and at the end of which he returned to his post; that his health becoming more seriously impaired, he applied, by the advice of the post surgeon, Dr. Gesner, to be ordered before a retiring board.

His application was accompanied by a certificate (signed B. Gesner, acting assistant surgeon), dated Ship Island, December 14, 1867, in which it was certified as follows:

"I have carefully examined this officer and find that he is suffering from phthisis pulmonalis; his disease is attended by hectic symptoms and much emaciation, which symptoms are greatly aggravated by his remaining at or near the seacoast. In my opinion, he will not be able to resume his duties for a very indefinite length of time, if ever, his recovery depending upon careful nursing, his native air, and strict avoidance of the cares and exposures incident to the life of a soldier."

At the same date Dr. Gesner addressed to Capt. Reeves a personal letter (filed herewith), in which he says:

"In view of your present condition of health, I would advise that if consistent with military requirements you leave the island as soon as possible. You can not possibly, in my opinion, improve while remaining here, while on the contrary every hour you so remain militates against the chance of your eventual recovery."

Thereupon the district commander, Gen. Hancock, ordered Capt. Reeves before a medical board convened at New Orleans, for examination, as preliminary to his appearing before the retiring board at New York.

This medical board, which was composed of three army surgeons, reported December, 1867, that they found Capt. Reeves "physically disabled for active duty by reason of confirmed phthisis pulmonalis," adding: "The duration of the disease can not be determined by the board, and the probability of recovery is doubtful."

In the following February Capt. Reeves was ordered before the retiring board at New York City, which was composed of seven officers, of whom three were army surgeons. These surgeons, after an examination of the officer, certified to the board that they found Capt. Reeves "suffering from phthisis pulmonalis, which, according to his own history of the case, commenced to be developed the 1st of June, 1867, when in the line of duty at Ship Island, and are of opinion that, in consequence thereof, he is incapacitated for active service." Notwithstanding this opinion, which in substance was that the officer's disability had been incurred in the line of duty, the board found that, though incapacitated for active service, his incapacity was "the result of sickness which was not incidental to the service."

The grounds for this conclusion are not stated. In the hearing before the board the only witness examined was Capt. Reeves himself, who testified that he was "in perfect health when commissioned in the Army, July, 1866;" that he duly passed, as above mentioned, the examining board before being commissioned; that the "first symptoms of his disease at Ship Island" were "occasioned," as he was advised by the (post) surgeon, "by malaria and heavy fogs;" that, though serving during the war as a soldier and an officer from 1861 to 1865, he had no symptoms of his present disease, though he had an attack of pneumonia in February, 1862; and that no member of his family, to his knowledge or belief, ever had "consumption or disease of the lungs."

No other material evidence as to the fact of disability was laid before the board, except the certificate, above quoted, of the board at New Orleans and Dr. Gesner. The testimony furnished, however, clearly made out a *prima facie* case of disability contracted in the service, even if the same were to be regarded as commencing with the attack of pneumonia in 1862, for in the case of an officer who has come into the Regular Army directly from the volunteers, his service being substantially continuous, a disability initiated in the earlier period during the war is properly to be taken into account in considering the question of his retirement.

The result, in my opinion, is that the conclusion of the board was not in conformity with the apparent facts of the case or just to Capt. Reeves.

Upon the report of the board the President directed that the officer "be retired from service with pay proper alone," under section 16 of the retirement act, and he has since been borne on the Army Register as retired for "disability not incident to the service."

In 1874 Capt. Reeves applied to have his order amended so as to show that he was retired from disability incurred in the line of duty. The application was denied by Secretary Belknap, February 6, 1874, who held that the applicant "could be retired only in accordance with the finding of the retiring board." The ground of this decision was perhaps that the officer's disability was not proved to have been incurred while he was in the Regular Army. More probably its basis was that the order of retirement, having fully taken effect, could not legally be modified.

The present renewed application of Capt. Reeves is referred to this office by the Acting Secretary of War with this indorsement: "The facts seem to justify the change asked for, if the change can legally and with propriety be made."

Nevertheless, as the law stands, the finding of a retiring board, approved by the President, seems to be conclusive as to the facts. The board finds the facts and the President approves or disapproves the finding, but the law does not give him the power to substitute a quite different finding of facts from that of the board. It is

a judicial power vested in the retiring board and himself, acting together, and not in him acting singly. The facts in this case have been determined by the action of the retiring board and the President under the law, and can not, I think, be now set aside. (U. S. v. Burchard, 125 U. S., 179, 180.)

The cases, it may be added, which are cited by this officer as precedents for favorable action in his behalf—the cases of Capt. Huxford and Lient. Halleck—are not, indeed, in point, inasmuch as in each finding of the board had been that the disability was incurred in active service in the field during the war. It was because it was incurred by them as volunteers that they were first retired on “pay proper alone.” In amending their order of retirement, the President did not change the facts found by the board, but modified only his disposition of the case so as to give the officer additional emoluments.

Notwithstanding, therefore, the considerations of justice in the case, I am unable to recommend the approval of the application. Congress alone can, in my opinion, grant relief to this officer.

Very respectfully, your obedient servant,

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

The SECRETARY OF WAR.



ISAAC ALGER.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 4332.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4332) to correct the military record of Isaac Alger, having had the same under consideration, submit the following report thereon:

It appears by the War Department record that the soldier was enrolled August 11, 1862, to serve three years; deserted December 20, 1862; arrested April 15, 1863, and was restored to duty from this desertion by competent authority without trial, upon condition of making good the time lost and reimbursing to the Government the expenses incurred in his apprehension. He served faithfully thereafter until November 30, 1864, when he deserted from hospital furlough, and it does not appear that he ever came under military control subsequent to that date.

In applying for removal of the charge of desertion and an honorable discharge he declared, June, 1889, that he received a sick furlough from hospital in the fall of 1864 and was unable to return before his company was mustered out of service; that his attorney was informed on July 29, 1889, of the evidence required under the law, but the testimony called for has not been received at the War Department, and in its absence the Department is unable to determine whether or not the desired relief can be afforded under existing law.

The testimony presented to your committee shows that the soldier died on the 8th day of March, 1892. It appears from the affidavit of John Patton, of the town of Luddington, Eau Claire County, Wis., made September 29, 1897, that he was a member of Company C, Tenth Regiment New York Heavy Artillery, in which regiment the said Alger also served. Said Patton was well acquainted with said Alger prior to enlistment, and that said Alger was a well and rugged boy at the time of his enlistment. Patton and Alger were together in Lincoln Hospital, near Washington, and were both furloughed home in October, 1864, and that said Alger went with Patton to the latter's home in Jefferson

County, N. Y. Patton remained at home thirty days, being fifteen days after expiration of his furlough, and Alger did not return with him because he was not able to start, and remained in that condition at Patton's home until the latter was discharged from and with his regiment some time in June, 1865. Said Patton also states that when he reached home in June, 1865, he found Alger still at his home, and in a sickly and partly helpless condition and unable to hardly get around, and was being taken care of by said Patton's wife.

It appears from another affidavit, made on the same day by said Patton and his wife, Polly C. Patton, that they had been acquainted with said Alger from the time he was 9 years old up to the date of his death; he came home to their residence during the month of October, 1864; he was then an invalid on furlough from the United States service; he made his home at their place during the ten years following, and for the two years following his coming home on furlough (from 1864 until 1866) he was an invalid, and was treated and nursed by Mrs. Patton for more than a year; he was at no time able to return to his regiment from October, 1864, until 1866, on account of being sick with diarrhea and kidney troubles; he was treated by Mrs. Patton with roots and herbs from October, 1864, until the fall of 1866, and more or less after that; one Dr. Smith, who is now dead, also treated Alger for bleeding at his lungs and pain in his side; they were witnesses to Alger's bleeding at his lungs, and he was more or less troubled with bleeding of his lungs up to the date of his death.

The affidavits of E. L. Brockway, of Jackson County, Wis., made May 14, 1897, Joseph Popham, of Black River Falls, Wis., made June 1, 1897, and Dr. S. F. Wason, of the same place, made June 7, 1897, show that said Brockway and Popham became acquainted with said Alger in the year 1875, and that said Wason had known him for twenty-five years. These several affiants testify that during their acquaintance with said Alger he was an invalid and in poor health, and said Popham states, under oath, that Alger was a continuous sufferer from some malady of long standing which, in affiant's opinion, finally caused his death; Alger worked for affiant, and that he was often obliged to leave his work and go home to his bed; affiant knew a great deal about Alger's health on account of his working for him whenever he was able to do so during their acquaintance, and said Alger living in affiant's house at the time of and for years before his death in 1892.

The witness (Wason) also testifies that the soldier was in very poor health each and every year of witness' acquaintance with him; that the soldier was unable to stand exposure or to endure labor to any great extent, and that said Alger continued to suffer from disease and was finally a physical wreck at the date of his death.

Your committee, upon due consideration of the testimony presented in this case, is of the opinion that the failure of the soldier to return to his regiment and serve out the full term of his enlistment was due to disability occasioned by ill health, and that the charge of desertion should consequently be removed from his record, and therefore recommend that the bill do pass with an amendment by adding, at the end of line 8, the following:

Provided, That no pay or allowances shall become due or payable by reason of the passage of this act.

WILLIAM E. ANDERSON.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. Cox, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 7673.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 7673) for the relief of William E. Anderson, submit the following report:

William E. Anderson's grandfather was a soldier of the Revolutionary war, and his father was a soldier in the war of 1812. William E. Anderson was a soldier of the Mexican war. This bill is to relieve him from the charge of desertion. The only evidence of desertion against William E. Anderson is what appears on the records of the War Department, and the entry of the record touching his desertion leaves the matter in doubt, the language being "believed to have deserted August, 1848," and a copy of the record furnished by the Adjutant-General April, 1890, states that "the date and place of supposed desertion are not stated." This record leaves it questionable whether, according to the record itself, he should ever have been considered a deserter. But as to this supposed desertion, we find the facts accounting for his absence from his regiment at the close of the war to be the following:

On the 13th of October, 1846, William E. Anderson enlisted for the term of five years in Company H, Third United States Artillery, and he is now a citizen of Kernersville, N. C. Said enlistment was on the 13th of October, 1846. He was a faithful soldier in the Mexican war until April 20, 1847. On about the 20th of April, 1847, because of sickness, he was left by his commanding officer at San Juan de Dios Hospital, at Vera Cruz, Mexico. Because of such sickness, he remained in said hospital until some time in June, 1847, when he was regularly assigned to duty with a printer at Vera Cruz who was doing Government printing. This kept him at this service until August, 1847. Mr. Jewel, the printer, left for Mexico, but the soldier, being weak from sickness, was delayed for a few days and captured by guerrillas and imprisoned, and was never afterwards able to join his regiment until the war closed.

The committee therefore recommend the passage of the bill with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

CHARLES HELD.

APRIL 1, 1898.—Laid on the table and ordered to be printed.

Mr. McDONALD, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT.

[To accompany H. R. 4117.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 4117) entitled "A bill to remove the findings of a court-martial by which Charles Held was discharged from the military service of the United States," report the same back to the House with the recommendation that the bill do not pass.



JOHN W. BARNES.

APRIL 1, 1898.—Laid on the table and ordered to be printed.

Mr. COX, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT.

[To accompany H. R. 3475.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3475) to relieve John W. Barnes of the charge of desertion, having had the same under consideration, report the same back to the House with the recommendation that the bill do not pass.



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RECKNAGEL & CO.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRAFF, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 6938.]

The Committee on Claims, to whom was referred House bill 6938, having had the same under consideration, beg leave to report it back to the House with the recommendation that, as amended by the committee, it do pass.

The object of this bill is to refer to the Court of Claims the question as to the excess of duty paid by Recknagel & Co., through a change in the phraseology of the Revised Statutes from the language of the statutes codified, which increased the duty upon argols 100 per cent, contrary to the intent of Congress, which was merely to effect a consolidation of existing statutes without changing the law, the bill for such consolidation not having passed through the Committee on Ways and Means, but having been enacted simply on the report of the commissioners appointed for the revision.

A bill was introduced in the Forty-ninth Congress providing directly for an appropriation for the refund of the duties paid in excess, but the claimants were advised that the case should be referred to the Court of Claims, and a bill similar to the present was introduced in the Fifty-fourth Congress for that purpose, but was not reached in the House.

The present bill does not ask for any appropriation. It has no political bearing or significance, does not affect any question of free trade or protection, is not to the disadvantage of any domestic manufacturer, and seeks to refer the matter to the Court of Claims simply because there is no other possible relief for the claimants.

The claim is based upon the fact that although the duty upon argols prior to the adoption of the Revised Statutes had been decided to be 3 cents per pound under the language of the statutes then existing, yet under the language of the statutes as revised it was plainly 6 cents per pound, although no change was intended, and the claim is consequently founded on a wholly inadvertent change in the law caused by the adoption in the codification or revision of the statutes of phraseology entirely different from the language of the statutes as they existed immediately prior to such revision.

The resolution adopted in 1866 for the revision of the existing statutes was merely intended as a codification of, without any change in, the laws as they then stood, and certainly was not intended to provide for any legislation in respect to the tariff; and this is confirmed by the report of the commission on revision to Congress in 1873-74—as stated by Representative Butler in the House—to the effect that the revision only embodied the law “as it is,” and was a consolidation of the existing statutes without change, and, quoting further from Mr. Butler’s remarks in behalf of the commission, he stated definitely that “we have not attempted to change the law in a single word or a letter so as to make a different meaning or different sense.” On report of this commission, as understood by Congress, and as stated by Representatives Butler, Poland, Wood, and Dawes in the House, and in the discussion between Senators Edmunds, Conkling, and Sherman in the Senate, Congress, on June 22, 1874, adopted the revision of the statutes.

At the time of the adoption of the revision, Messrs. Recknagel & Co. were, and had been for a number of years, large importers of argols.

These argols are the wine lees, or crust, deposited on the cask by the juice of the grape in the process of its fermentation—merely the raw material from which cream of tartar is manufactured.

Practically all argols are crude, in the sense that they are raw material, not used without undergoing further process of refining, although some argols had undergone a part of such process, or were, as classified by the Treasury Department, partially refined. The essential facts with respect to this claim are that prior to the revision of the statutes all argols partially refined were dutiable under the existing laws at 3 cents per pound, as appears from the statutes themselves, and as was decided by the Treasury Department, while subsequent to the revision they were dutiable at 6 cents per pound, as will appear from the language of the revision and the subsequent decision of the Treasury Department, although no intent existed to change the rate of duty.

The Treasury Department decided, in its decision of October 1, 1872, No. 1246, that partially refined argols were dutiable at the rate of 3 cents per pound under the acts of 1861, 1862, and 1870, and no other legislation on the subject had been passed up to the time of the revision.

Thereafter the Treasury Department, confirming its previous decision under the language of the existing statutes, held, by its decision (unpublished) of October 3, 1874, that under the language as changed by the revision these same argols were dutiable at the rate of 6 cents per pound.

Between 1866 and 1874, and particularly in 1872, 1873, and 1874, Recknagel & Co. had entered into contracts, with several years to run, for the purchase and sale of these argols, relying on the decision of the Treasury Department that they were only subject to a duty of 3 cents per pound, and upon the facts already set forth showing that there was no intent on the part of Congress to alter this rate, and that the revision would not, in fact, change the existing law.

No intention to change the rate of existing duties had been indicated. There was no agitation on the subject, and no suggestion had been made at the time that any additional duties were to be levied on any article, or the tariff provisions in any respect altered. No bill had been introduced to that effect, and Recknagel & Co., like any other business men, were fully warranted in conducting their business in reliance upon what had been authoritatively announced as to the intent of Congress, as subsequently evidenced by the statements of prominent members of

the Senate and House, that the commission appointed to revise and consolidate the statutes without changing the law would fulfill its duty as limited by the act creating it.

Recknagel & Co. had no reason to suppose any change would be made or had been made until, after the adoption of the revision, it was discovered that the words "argols, other than crude, 6 cents per pound," which were not found in any previous statute, had been interpolated in the revision, with the result of advancing the duty upon partially refined argols just 100 per cent, as shown by the decision of the Treasury Department in October, 1874, already mentioned.

The course of business in these argols required long future contracts, both for their purchase and sale, since, in order to be certain of supplying the domestic manufacturers of baking powder, who required a fixed quantity and a definite price for a series of years, Recknagel & Co. were obliged to contract in a similar manner for the purchase of the merchandise from the foreign shippers; and the relief to be afforded by this bill is limited to those argols ordered or contracted for prior to the decision of the Department in 1874, and in reliance upon the prior statutes and decisions.

The margin of profit to Recknagel & Co., who were practically commission merchants in this business, was, of course, small, and the result of the increase to 6 cents per pound, which they were compelled to pay under the language of the revision, practically ruined the firm, which had outstanding at the time of the revision contracts having years to run, which they were unable to cancel.

Had this change been the deliberate intent of Congress it might fairly be said that the injury was one of the risks of the business, taken by any importer, that Congress might change the rate of duty without notice to him, although it had been the universal practice of Congress not to make such alterations without a hearing, nor without fixing a time in advance at which the law should take effect, to enable persons interested to adjust their business to its provisions; but in this case the change was not deliberate nor intentional, and the firm was fully warranted in relying upon the fact that no change would be made.

As a matter of fact no intentional change in the tariff was made until 1883, and in the general tariff legislation of that year these argols were placed upon the free list.

The facts in this case are undisputed, and are matters of public record, consisting of statutes, decisions of the Treasury Department, the proceedings of Congress as set forth in the Congressional Record; and the facts as to the importations of the firm, and the effect upon its business of the increase in duty, were matters of public notoriety in the trade.

The claimants had no possible relief by protest, since the change, though unintentional and inadvertent, was perfectly plain, and under the law they could not avoid payment of the increased duty.

Congress, however, did not intend that these increased duties should be paid, and therefore the Treasury can not honestly retain the excess; and were the question between individuals there could be no doubt that a court of competent jurisdiction would enforce the clear moral and equitable relief to which these claimants are entitled.

As between the firm and the United States of America, however, the only relief that can be obtained is by the action of Congress in conferring jurisdiction upon the Court of Claims.

In the late Congress the Committee on Ways and Means, in the discussion in respect to claims for alcohol used in the arts, laid down the just

principle that Congress should not, simply because it had the physical power, interpose essentially technical obstacles to any relief to which the claimants should prove to be fairly and morally entitled.

Messrs. Recknagel & Co. have pressed their claims with such energy as their financial resources, or rather lack of them, would permit, and they now apply to this Congress, asking that it be referred to the Court of Claims to ascertain the amount to which they are morally and equitably entitled and to render judgment therefor.

Such relief certainly can not be denied them on any ground consistent with the honor, integrity, and resources of the United States, or with the most elementary principles of justice.

The committee recommend that the bill be amended so as to read as follows:

A BILL For the relief of Recknagel and Company.

Whereas the collector of customs at the port of New York, by virtue and authority of the Revised Statutes of the United States, approved June twenty-second, eighteen hundred and seventy-four, has demanded and collected upon certain importations of merchandise into that port a greater duty than has been demanded and collected upon the same kind of merchandise imported into the same port prior to the first day of December, eighteen hundred and seventy-three, by virtue and authority of the revenue laws of the United States in force on said first day of December, eighteen hundred and seventy-three; and

Whereas Carl L. Recknagel, Rudolph Pagenstecher, and Albrecht Pagenstecher, doing business as copartners, under the firm name of Recknagel and Company, in the city of New York, have since the twenty-second day of June, eighteen hundred and seventy-four, and prior to the first day of July, eighteen hundred and eighty-three, imported into the said port certain merchandise known as argols other than crude, or argols partially refined, or brown argols partially refined, or brown argols, upon all of which they have been required to pay by the collector aforesaid and have paid into the Treasury of the United States the duty of six cents per pound; and

Whereas under the revenue laws of the United States in force on the said first day of December, eighteen hundred and seventy-three, the said merchandise known as argols other than crude, or argols partially refined, or brown argols partially refined, or brown argols, were charged with a duty of three cents per pound; but which under the language of the Revised Statutes were held dutiable at the rate of six cents per pound; and

Whereas the said Recknagel and Company had ordered or had entered into contracts for the purchase and sale of large quantities of the said merchandise prior to the twenty-second day of June, eighteen hundred and seventy-four, and prior to October third, eighteen hundred and seventy-four, when the Treasury Department decided that such was the effect of the revision, under and by virtue of which they imported large quantities of the said merchandise above described subsequent to said twenty-second day of June, eighteen hundred and seventy-four, which orders or contracts were made in reliance upon a duty at the rate of three cents per pound, but upon the merchandise imported in pursuance of which they were compelled to and did pay at the rate of six cents per pound: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said Carl L. Recknagel and Rudolph Pagenstecher and Albrecht Pagenstecher, as now or formerly composing the said firm of Recknagel and Company, or their legal representatives or successor in interest, recover from the United States of America whatever sums were paid by the said firm to the collector of the port of New York between the twenty-second day of June, eighteen hundred and seventy-four, and the first day of July, eighteen hundred and eighty-three, upon all importations of argols other than crude, or argols partially refined, or brown argols partially refined, or brown argols, imported by them under the terms of, or in pursuance of, or for the purpose of fulfilling any contracts or accepted orders entered into by the said firm, for the sale of said merchandise by said firm, prior to said third day of October, eighteen hundred and seventy-four, in excess of the duty of three cents per pound.

SEC. 2. That the Court of Claims of the United States is hereby authorized, empowered, and directed to hear the claim of Carl L. Recknagel, Rudolph Pagenstecher, and Albrecht Pagenstecher, as now or formerly composing the said firm of Recknagel and Company, or their legal representatives or successors in interest, allowed as aforesaid under the provisions of this act, and to ascertain and liquidate the amount thereof, and to render and enter its judgment or decree thereon in their favor for such amount, if any,

SEC. 3. That upon such hearing before the Court of Claims the appraiser's return upon the invoices of the respective importations of the said merchandise shall be conclusive as to the kind and character of the said merchandise and the class to which said merchandise belonged, and as to the rate of duty imposed; and the entries of the said merchandise as filed and liquidated at the custom-house at the port of New York shall be sufficient as forming a basis for the amount of the judgment of the said court, limited, however, by section one aforesaid; and that upon such hearing, in view of the lapse of time, the destruction of the papers, and the death and absence from this country of witnesses, the said claimants may establish any facts necessary for the support of their claim, not shown by the official evidence above mentioned, by affidavit, deposition, or copies of papers verified by oath, or such other evidence as they may be able to obtain, without being subject to any objection arising from the character of the evidence so offered: *Provided, however,* That no such evidence shall be received in contravention of any fact established by the said official records: *Provided, however,* That all such proofs so offered shall be subject to contradiction and rebuttal.

The bill as thus amended authorizes the claimants to recover the excess over 3 cents per pound in tariff paid by them on importations made for the purpose of filling contracts for the sale of said merchandise by them, which were made prior to October 3, 1874, when the claimants first had actual knowledge of the change of the law raising the duty upon said merchandise to 6 cents per pound.

The committee therefore recommend that the bill as amended by this committee do pass.



JOHN VEELEY.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLARDY, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 693.]

The Committee on Claims submit the following report on the bill (S. 693) for the relief of John Veeley, referred to them by the Senate:

This claim was carefully considered by them at the first session of the Fifty-fourth Congress, and a favorable report was made thereon and certain amendments were recommended. The bill was passed by the Senate after the adoption of the amendments, but no final action was taken by the House of Representatives.

This report reads as follows:

[Senate Report No. 884, Fifty-fourth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1335) for the relief of John Veeley, have given the same careful consideration, and submit the following report thereon:

The claimant was, on the 29th day of September, 1868, employed in Louisville, Ky., as a carpenter by the Louisville and Nashville Railroad Company, and while tearing out the end of an old box car which was under repair he found five United States Treasury notes, payable to bearer, of \$100 each. The notes were somewhat mutilated and appeared to have formed part of a rat's nest, but there seems to have been no difficulty in determining their character, their denomination and date, and the issue and series to which each belonged.

Upon the advice of a friend, Veeley took the notes to the Louisville custom-house, and at his request they were forwarded to the Treasury Department for redemption, but the Department refused to redeem them, and with the approval of the Secretary they were returned to him by express in February, 1869. He then sold them to one Julius Wellman, a broker, for \$300.

In March, 1869, Wellman had them sent again to the Treasury Department, and the matter was referred to the First Comptroller, who decided, on the 31st day of July, 1869, that they should neither be redeemed nor returned to Wellman.

Wellman then made a demand upon Veeley for the return of the purchase money, and it is alleged that an officer was sent to intimidate him and force a settlement. Veeley had in the meantime disposed of the \$300 and, being dependent upon his daily labor, it was not easy to refund the money, but he at length did so by installments, and whatever rights were acquired by the original finding were revived in him by the repayment.

Veeley subsequently renewed his efforts to secure payment from the Treasury Department, and his counsel presented his case from time to time and asked that it might be reopened, but the request was denied, and the notes still remain in the

hands of the Treasurer and have never been redeemed. The final refusal was contained in a letter of the First Comptroller to Veeley's attorneys, dated March 24, 1890.

A bill was then introduced in the Senate for Veeley's relief during the Fifty-first Congress, on the 25th day of April, 1890, and in each Congress since then, and they have been referred to this committee, but no action has ever been taken upon any of them.

The subcommittee in charge of this case during the present Congress made application to the Treasury Department for such information as the files and records contained and the action taken there and the views and opinions upon which such action was based.

The following reply was received:

TREASURY DEPARTMENT, OFFICE OF THE TREASURER,
Washington, D. C., March 28, 1896.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, requesting further information in relation to the claim of John Veeley for the redemption of five United States Treasury notes of \$100 each, stating that the committee (of Claims) desires to know the class to which these notes belong, whether they were interest-bearing or not, and if they were whether they had become due before they were first presented for payment, and also whether the record shows that any other demand has been made upon the Department for payment of these notes, or any of them, from other parties than John Veeley or Julius Wellman.

In compliance with your request, I submit the information desired, together with a synopsis of the proceedings in the case.

(1) The said notes are described as follows:

United States note, March 10, 1862, No. 85953A.....	\$100
United States note, March 10, 1862, No. 99331C.....	100

These notes bore no interest.

Compound-interest note, August 15, 1864, No. 27128A	100
Compound-interest note, August 15, 1864, No. 27229C	100

These notes bore interest at the rate of 7.3 per cent per annum, redeemable three years from date.

One-year 5 per cent note, act of March 3, 1863, No. 22310D.....	\$100
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This note bore interest at the rate of 5 per cent per annum, and was redeemable one year from date.

(2) The records of this Bureau do not show that any demand has been made upon the Department for the payment of the said notes on behalf of parties other than John Veeley and Julius Wellman.

(3) The notes were originally received from John Veeley, Louisville, Ky., with letter dated September 29, 1868. On February 27, 1869, at the solicitation of John A. Wills, and with the approval of the Secretary of the Treasury, the notes were returned by Adams Express Company to the sender, who was advised that the Department adhered to its opinion that the notes ought not to be redeemed. On March 4, 1869, the notes were again forwarded for redemption, this time by William Reinicke, secretary of the Western Insurance Company, Louisville, Ky., as correspondent for Julius Wellman, broker. They were sent to the First Comptroller of the Treasury. On July 31, 1869, the notes were returned to the Treasurer of the United States by the First Comptroller, with the advice that they be neither redeemed nor returned.

On December 17, 1880, the Secretary of the Treasury addressed a letter to Hon. A. S. Willis, House of Representatives, acknowledging the receipt of his letter of the 15th instant, inclosing a letter from Messrs. S. W. D. Stone and William C. Mills in relation to the said notes, advising that the same had been referred to the Treasurer of the United States for report. On the following day the Treasurer returned the letter to the Secretary, inclosing opinion of the First Comptroller of July 31, 1869, before alluded to. On December 21, 1880, the Secretary wrote to the Hon. A. S. Willis, inclosing copy of said opinion.

On January 15, 1886, Mr. Veeley, giving his address care of J. B. Shaw, Lafayette, Ind., wrote to the Treasurer, making inquiries as to the disposition of said notes. On January 19, 1886, he was advised that the notes were sent to him at Louisville, Ky., on February 27, 1869. Under dates of March 26, May 8, July 1, and October 6, 1886, John H. Stotsenburg, of New Albany, Ind., wrote in relation to certain currency forwarded by one Julius Wellman some time in 1869, to which letter replies were made in due course.

On May 21, 1888, Messrs. Ellis, Johns & McKnight, attorneys for John Veeley, of New Albany, Ind., made demand for the redemption or return of said notes, or that a hearing be granted, which letter was referred to the First Comptroller, of which action the writers were advised. On July 19, 1888, the First Comptroller advised the

attorneys that the case could not be reopened. On July 21, 1888, application was made for rehearing, in reply to which the First Comptroller reaffirmed his decision that the case could not be reopened.

On March 24, 1890, the First Comptroller addressed a letter to Messrs. Clark, Johns & McKnight, attorneys, in which he stated that he had given careful consideration to the brief filed in the matter of the claim of John Veeley, and that he could not consistently reopen the case.

Since the date last mentioned there has been no further correspondence.

Respectfully, yours,

J. F. MELINE,
Assistant Treasurer United States.

Hon. SAMUEL PASCO.

The committee are impressed with the justice of the claim. Veeley was evidently an honest finder of the Treasury notes; they are payable to bearer; he made no concealment of the manner in which they had come into his possession. After he had sold them to a person better versed than himself in the value of money matters and the rights of those who find and lose money, and the purchaser had failed to get them cashed, he returned the money to Wellman that he had received for them. More than twenty-seven years have elapsed since the finding, and although the circumstances were published in the public newspapers at the time, no claimant has appeared for the Treasury notes; and the committee are informed that no inquiry has ever been made by any parties at the Treasury Department claiming to be losers of the notes. Even if other claimants should appear, the Government would be under no obligations to pay the amount of these notes to them whether Veeley is paid or not.

The letter from the Assistant Treasurer indicates a variance between the description of the notes contained in the bill as compared with the Treasury record where they are held. Attention has been called to this difference, and upon a verification the Treasury statement has been found to be correct, and the bill should be amended accordingly.

The committee recommend that the description beginning with "United States," in line 8, to the end of the bill, be stricken out, and the following be inserted in lieu thereof:

"United States note, March tenth, eighteen hundred and sixty-two, numbered eighty-five thousand nine hundred and fifty-three, check letter A; United States note, March tenth, eighteen hundred and sixty-two, numbered ninety-nine thousand three hundred and thirty-one, check letter C, both of the foregoing bearing no interest; compound-interest note, August fifteenth, eighteen hundred and sixty-four, numbered twenty-seven thousand one hundred and twenty-eight, check letter A; compound-interest note, August fifteenth, eighteen hundred and sixty-four, numbered twenty-seven thousand two hundred and twenty-nine, check letter C, both of the last named bearing interest at the rate of seven and three-tenths per cent per annum and redeemable three years from date; one-year five per cent note, act of March third, eighteen hundred and sixty-three, numbered twenty-two thousand three hundred and ten, check letter D, bearing interest at the rate of five per centum per annum and redeemable one year from date, according to the description of said notes set forth in the letter of the Assistant Treasurer dated March twenty-eighth, eighteen hundred and ninety-six, each of said five notes being of the denomination of one hundred dollars."

The bill provides for the payment of the value of the notes in language which is not clear; those bearing interest were all redeemable before the finding occurred, and no interest should be paid after that time. In order that there may be no doubt as to the meaning of the bill, the committee recommend that there be added at the end thereof the following:

"*Provided*, That in ascertaining the value of the notes there shall be added to the principal of those bearing interest all unpaid interest thereon, according to their terms, to the date when said notes became redeemable, and such amount shall be paid and received in full satisfaction of the claim of the said John Veeley."

When thus amended it is recommended that the bill do pass.

The committee have again examined the case, and find that the bill is the same as the amended bill passed at the Fifty-fourth Congress, and it is recommended that it do pass.

RIGHT OF WAY TO FLANDREAU, S. DAK., TO EXTEND A
STREET THROUGH GOVERNMENT LAND.

APRIL 1, 1898.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed.

Mr. MILLS, from the Committee on the Public Lands, submitted the
following

REPORT.

[To accompany H. R. 9604.]

The Committee on the Public Lands, to whom was referred the bill
(H. R. 9604) granting a right of way to the village of Flandreau, report
the same with the following amendment:

Add the following to line 14, after the word "section," viz:

Provided, That the fee of the land occupied by the street shall remain in the United
States, with reversion of the use and occupancy in the event of the closing or aban-
donment of that portion of the street.

And, as so amended, your committee recommend that the bill do pass.

The Government of the United States owns 1 acre of land situated in
the village of Flandreau, S. Dak., through which said village desires to
extend a public highway, known as Prospect street, and described as
follows:

A 1-acre lot fronting the south line of the southeast quarter of section 21, town-
ship 107, range 48, in Moody County, S. Dak., said lot running 120 feet on the south
line of said described land by 363 feet deep, and the southeast corner thereof being
1,016 feet east of the southwest corner of the above-mentioned quarter section.

The citizens of Flandreau petitioned the Commissioner of Indian
Affairs to open said land, who submitted the question to the Secretary
of the Interior, with the request that the petition be granted.

In his consideration of the question the Secretary of the Interior
submitted the annexed letter, which is herewith made a part of this
report.

DEPARTMENT OF THE INTERIOR,
Washington, March 17, 1898.

SIR: I am in receipt of your communication of the 10th instant, and accompany-
ing petition of citizens of the village of Flandreau, S. Dak., requesting that said
village be granted the right of way to extend Prospect Street through the 1-acre
tract, the title of which is in the United States.

2 GRANTING RIGHT OF WAY TO VILLAGE OF FLANDREAU.

Your letter shows that this property was (it is presumed) purchased under the authority of the act of June 22, 1874 (18 Stat., 167), and the act of March 3, 1875 (18 Stats., 441), making appropriations for the Sioux Indians, and that it was conveyed to the United States in fee by the trustees of the Flandreau Presbyterian Church by deed dated July 5, 1876.

You recommend that this right of way be granted by the Department, with a proviso that the fee of the land occupied by the street shall remain in the United States, with reversion of the use and occupancy in event of the closing or abandonment of that portion of the street by the town of Flandreau.

In response, you are advised that upon the facts stated there does not appear to be any authority vested in the Department to grant the right of way prayed for by the petitioners.

Section 2477 of the Revised Statutes provides that "the right of way for the construction of highways over public lands not reserved for public uses is hereby granted."

It is not believed that this provision is applicable to the land in question; in fact, in the case of land of like status it was held by the Assistant Attorney-General of this Department, in an opinion dated September 21, 1896, in the matter of an application for the right of way for a street or road across a tract of land at Albuquerque, N. Mex., that it was not public land as defined by the Supreme Court of the United States, and that even if it were it would be excluded by the section referred to because of the use to which it was dedicated. In that case it was decided that recourse to Congress would be necessary to obtain the requisite authority.

I am therefore unable to concur in your recommendation, and the papers accompanying your communication are herewith returned.

Very respectfully,

C. N. BLISS, *Secretary*.

The COMMISSIONER OF INDIAN AFFAIRS.



FRANK LOYD.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GRIFFITH, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 7318.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 7318) for the relief of Frank Loyd, beg leave to submit the following report:

The report of the Department of Justice shows that on the 23d day of January, 1889, one Benjamin Church was arrested for violating the internal-revenue laws (retailing without having paid the special tax as required by law) and carried before J. B. Gaston, United States commissioner at Gainesville, Ga., where he was held to bail in the sum of \$500 for his appearance at the March term, 1889, of the United States court for the northern district of Georgia. On the 13th day of March, 1889, a true bill was returned against Benjamin Church and on May 27, 1889, his case was assigned for trial, and he having failed to appear, his bond was forfeited and scire facias issued against Benjamin Church as principal and Alexander M. Mauldin as security on his bond. On September 5, 1889, this claimant, Frank Loyd, purchased from said Alexander M. Mauldin 200 acres of land—lots Nos. 310 and 311 in the Eighteenth district and first section of Towns County, Ga. That on January 31, 1890, final judgment was taken on said bond for the sum of \$500 principal and \$16.50 costs. On April 15, 1890, the case against Benjamin Church was nol-prossed, the following being a copy of the order of nolle prosequi:

In the circuit court of the United States, northern district of Georgia, March term, 1890. The United States v. Benjamin Church, Habersham County. Indictment. Retailing, etc. Order of nolle prosequi.

The defendant in the above-stated case, having been indicted by the grand jury at a subsequent term of said court for the said offense, with others, and having been tried and convicted at the present term of said court, and there being no longer any reason why the bill of indictment in this case should not be disposed of, it is, on motion of the United States attorney,

Ordered, That nolle prosequi be, and the same is hereby, entered in said case.
In open court, April 15, 1890.

WM. T. NEWMAN, *United States Judge.*

Fieri facias issued from the judgment against Benjamin Church, principal, and Alexander M. Mauldin, security, and on January 30, 1891, the marshal levied the same on 200 acres of land—lots Nos. 310 and 311, in the eighteenth district and first section of Towns County, Ga.—as the property of Alexander M. Mauldin, surety on said bond, this being the land sold and for which Mauldin had been paid by the claimant, Frank Loyd, on September 5, 1889. This land was advertised in a newspaper printed in Atlanta and was sold on March 3, 1891, in Atlanta, Ga., for the amount of the fieri facias and costs, to wit, \$522.90, the same being \$500 principal and \$22.90 costs, the United States being the purchaser. The claimant, Frank Loyd, had no knowledge of the suretyship of Alexander M. Mauldin on the bond of Benjamin Church at the time he bought this land from Mauldin, nor did he have any notice of the judgments, the levy, or sale of this land until after such sale. He lives in the country, a great distance from railroads, and more than 100 miles from Atlanta, where this land was sold.

Alexander M. Mauldin is insolvent. Loyd is a poor man. Your committee has so amended this bill that Loyd will be required to pay all costs and expenses of the Government, both in bringing this land to sale and in the criminal case of the United States against Benjamin Church.

For the reasons above stated your committee report the bill back to the House with the recommendation that the same do pass as amended, to wit:

Insert in line 17, page 2, after the word "cost," the following: "and expense."

Also amend by adding after the word "same," in line 19, page 2, the following: "And also all costs in case of United States against Benjamin Church for retailing."



JAMES H. KILE.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1829.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1829) granting an increase of pension to James H. Kile, have examined the same and the evidence relating thereto, and respectfully report:

The bill proposes to increase from \$17 to \$24 per month the pension of James H. Kile, of Asheville, N. C.

The Senate report (No. 263) states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1829) granting an increase of pension to James H. Kile, have examined the same, and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, was reported favorably, and passed the Senate.

The report was as follows, which your committee adopt, and recommend the passage of the bill:

Claimant served as a first sergeant and first lieutenant in Company D, First Tennessee Volunteer Light Artillery, from November 3, 1861, to July 20, 1865.

Original declaration filed February 3, 1888, for rheumatism of right wrist and left inguinal hernia; was allowed at \$18. Reissued to change rate to \$17 from August 4, 1892.

Slip from medical division to chief of board of review:

"Claimant's condition is shown by the medical certificate to be partly due to disease of liver and kidneys, which are not results of pensioned causes. The reduction to \$17 is correct and is adhered to."

Application for increase filed March 21, 1895; rejected July 19, 1895.

R. H. Witt testifies to rheumatism in the service and since. Lieutenant Kelly to rheumatism in service, also to injury in service. O. D. Laird, second lieutenant, to incurrence of injury and rheumatism in service. David Brannon to incurrence of disabilities in service. Other testimony as to continuance.

Examination at Asheville, N. C., in April, 1888, he is rated four-eighteenths for wrist, and eight-eighteenths for hernia.

At Murphy, October 21, 1891, he is rated eight-eighteenths for wrist and twelve-eighteenths for hernia, and six-eighteenths for chronic nephritis; "by all equivalent to loss of hand or foot (at least)."

At Murphy, May 1, 1895:

"General appearance feeble, complexion sallow, tongue red and fissured. Lungs normal, liver tender and enlarged. * * * Kidney tender. Rheumatism shown

by ankylosis of right wrist, motion extremely limited, discoloration of skin at knees and on legs. Crepitation at kneejoints, ankles, elbows, and shoulders. Muscles atrophied, tendons contracted, back stiff. Hernia, left inguinal (complete) oblique. No evidence of venereal or vicious habits. In my opinion claimant is totally incapacitated from above-stated conditions for the performance of any manual labor whatever, and that his disabilities are more than equivalent to the loss of a hand or foot; third grade."

Your committee recommend that the bill do pass with an amendment.

Strike out the word "thirty-six," in line 6, and insert in lieu thereof the word "twenty-four."

It is evident that the soldier suffers from a \$24 disability of service origin. He has a good record, and the case is a most meritorious one and Congressional action justified.

The Senate bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 4, strike out "pay," and insert in lieu thereof "place the name of."

In line 5, after "volunteers," insert "on the pension roll and pay him a pension of."

In line 6, strike out "seventeen dollars," and insert in lieu thereof the word "that."

○

OLIVER P. SILVEY.

APRIL 1, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 637.]

The Committee on Invalid Pensions, to whom was referred the bills (S. 637 and H. R. 3069) granting an increase of pension to Oliver P. Silvey, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$20 per month the pension of Oliver P. Silvey, of Stevensville, Mont.

The Senate report (No. 254) states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 637) granting an increase of pension to Oliver P. Silvey, have examined the same, and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

"The claimant was a musician in Company D, Forty-eighth Indiana Volunteers. He is at the present time drawing a pension at the rate of \$12 per month for disease of the lungs, resulting from exposure at the siege of Vicksburg, June 13, 1863. An application for increase on account of aggravated condition of the lung trouble, for which pension was originally granted, and also rheumatism and disease of the left leg resulting from the service, was subsequently rejected by the Pension Bureau.

"The record in the case discloses the fact that the claimant is in very bad physical condition. Affidavits on file with the committee, signed by six prominent citizens of Stevensville, Mont., who have known the claimant for five years or more, show conclusively that the claimant is not physically able to perform manual labor.

"Under the circumstances, your committee believe that a pension of \$20 per month will be commensurate with his disabilities, and accordingly recommend that the bill do pass with an amendment, as follows:

"Amend by striking out the word 'twenty-four,' in line 7, and inserting in lieu thereof the word 'twenty.'"

As the claimant is so disabled by reason of army service that he can not do anything to support himself and is needy your committee report the Senate bill with the recommendation that it pass when amended as follows:

In line 7, after the word "Infantry," insert the following: "and pay him a pension."

STATE OF MONTANA, *County of Ravalli, ss:*

In the matter of pension claim of Oliver P. Silvey, Company D, Forty-eighth Indiana Volunteer Infantry.

On this 4th day of February, A. D. 1896, personally appeared before me those who sign, whose post-office address is Stevensville, Ravalli County, Mont., well known to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows:

We, six of the best citizens of Stevensville, in the county of Ravalli, in the State of Montana, do certify that each of us has known Oliver P. Silvey for five or six years, and we do not consider him to be able to perform manual labor; and neither of us is directly or indirectly interested in the prosecution of this claim for increase of pension. We deem it just and right that said Oliver P. Silvey be allowed an increase for rheumatism in left leg and side. He has no visible means of support besides his pension. Some of us have known him for ten years.

WILLIAM BURTON.
C. E. GILLEN.
W. M. ENGLISH.
R. P. SIMPSON.
J. M. HARBIT.
J. D. MISER.

STATE OF MONTANA, *County of Ravalli, ss:*

Sworn to and subscribed before me this day by the above-named affiants; and I certify that I read said affidavit to said affiants, with its contents, before they severally executed the same.

I further certify that I am in no wise interested in said case nor am I concerned in its prosecution, and that said affiants all are personally known to me, and that they are credible persons.

[SEAL.]

J. D. MISER,
Notary Public, Ravalli County, Mont.

STATE OF MONTANA, *County of Ravalli, ss.:*

In the matter of application for increase of pension of Oliver P. Silvey, Company D, Forty-eighth Indiana Infantry Veteran Volunteers.

On this 4th day of February, A. D. 1896, personally appeared before me, a notary public in and for said county, duly authorized to administer oaths, Oliver P. Silvey, aged 51 years, a resident of Stevensville, in the county of Ravalli, in the State of Montana, well known to me to be respectable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows: Oliver P. Silvey deposes and says: That he is not able to do manual labor; that he owns no property nor moneys, and the only thing he can do is to work at the barber business sometimes, and that hardly affords him a living, together with the pension he now draws, from one year to another; and he claims increase from his left leg and side, of rheumatism, which at times is very painful and swollen; was so bad at times as to be obliged to go on crutches; his eyesight is failing also.

OLIVER P. SILVEY.

Also, Walter M. English deposes and says:

I have, and am at the present time, living close neighbor to said Silvey for at least five or six years, and have seen him almost every day during this period, and know the facts stated in his affidavit to be true; and I further state that he is an honest, reliable man, square in his dealings, and he is not addicted to any vicious habits. I am not interested in the prosecution of this claim. I sign this affidavit with him because I know the facts stated herein; I know he is badly crippled, and has been for years, with rheumatism, and I know that he has no other means of support.

W. M. ENGLISH.

Sworn to and subscribed before me this day by the above-named affiants; and I certify that I read said affidavit to said affiants, and acquainted them with its contents before they executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution, and that said affiants are personally known to me, and that they are credible persons.

[SEAL.]

J. D. MISER,
Notary Public, Ravalli County, Mont.

In the pension claim, certificate No. 177410, of Oliver P. Silvey, late musician, Company D, Forty-eighth Indiana Volunteers.

Personally came before me, W. B. Parsons, M. D., whose post-office address is Missoula, Mont., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and has been acquainted with the above-named soldier for about five years, and that he has on several occasions examined claimant, Oliver P. Silvey, the last time on May 2, 1894, and that he then had nasal catarrh and rheumatism in left hip and knee joints, which considerably interfered with locomotion. I last saw him in December, 1895; made no examination, but noticed his being somewhat pale and nervous. He lives 30 miles from me, and I see him perhaps not more than twice a year. He has never been treated by me. It is my opinion that he is not capable of doing manual labor. I did not know him prior to enlistment.

He further declares that he has been a practitioner of medicine for twenty-five years, and that he has no interest, either direct or indirect, in the claim to which this affidavit is supplementary, and is not engaged in its prosecution.

W. B. PARSONS.

Sworn to and subscribed before me this 5th day of February, 1896; and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the foregoing affidavit were fully made known to him before its execution.

I have no interest, direct or indirect, in this claim, and am not engaged in its prosecution.

[SEAL.]

F. W. McCONNELL,
Clerk District Court.

RENT OR LEASE OF CERTAIN PORTIONS OF FOREST RESERVES.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. ELLIS, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 8162.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 8162) entitled "A bill to authorize the Secretary of the Interior to rent or lease certain portions of forest reserves," beg leave to submit the following report, and recommend that said bill do pass with an amendment:

This is a bill enacting that the Secretary of the Interior may, under such rules as he may from time to time make, rent or lease to responsible persons or corporations grounds near or adjacent to mineral, medicinal, or other springs within any forest reserves, now or hereafter to be established, for the purpose of permitting the persons or corporations securing such lease to erect upon the leased ground sanitariums or hotels to be used by the public. And also to permit the use of said lands, for the convenience of people visiting such springs, for the erection of tents or temporary dwelling houses for those who resort there for health or pleasure.

The Secretary of the Interior is fully authorized to make all rules and regulations governing the erection of buildings and all other privileges granted by this act, and prescribe the terms and duration and fix the compensation to be paid for privileges.

This bill has the approval of the Commissioner of the General Land Office and the Secretary of the Interior, with the recommendation that the scope of the bill be enlarged by authorizing a general leasing of forest reserves for grazing purposes, and that the funds realized from such leases be used as a special fund for the care of forest reserves.

Your committee submit herewith the recommendations referred to, and make them a part of this report.

With the addition of the following section, as an amendment, the committee recommend the passage of the bill:

SEC. 2. That all funds arising from the privileges granted hereunder shall be covered into the Treasury of the United States as a special fund to be expended in the care of public forest reservations.

DEPARTMENT OF THE INTERIOR,
Washington, March 3, 1898.

SIR: I have the honor to hand you herewith copy of report, dated the 28th ultimo, by the Commissioner of the General Land Office on H. R. 8162, "To authorize the Secretary of the Interior to rent or lease certain portions of forest reserves."

The Commissioner states that action in a line with this bill meets with his hearty approval, but is of the opinion that the provisions of the bill should be expanded to authorize the Secretary of the Interior, in the exercise of his discretion, to rent or lease lands within forests reservations for grazing or any other purposes not incompatible with the purposes for which such reservations are created.

To that end the Commissioner has prepared, and recommends as a substitute for the bill under consideration, a draft of a bill expanding the scope of the same as suggested, and also amending the title thereof, which proposed substitute is inclosed herein.

In addition to the recommendation of the Commissioner, I have also to suggest that section 2 of the substituted bill be amended by inserting after the word "expended," in the last line thereof, the following: "under the direction of the Secretary of the Interior," so that said section 2 will read as follows:

"It is further provided, That all funds arising from the privileges granted hereunder shall be covered into the Treasury of the United States as a special fund to be expended under the direction of the Secretary of the Interior in the care of public forest reservations."

When so amended I recommend the passage of the substituted bill.

Very respectfully,

C. N. BLISS, *Secretary.*

The CHAIRMAN OF THE COMMITTEE ON THE PUBLIC LANDS,
House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 28, 1898.

SIR: I am in receipt, by your reference, for report thereon, of a letter from Hon. John F. Lacey, chairman of the House Committee on the Public Lands, transmitting, for any suggestions or information in relation thereto that you may deem proper, House bill 8162, "to authorize the Secretary of the Interior to rent or lease certain portions of forest reserves."

The provisions of the bill authorize the Secretary of the Interior, under suitable rules and regulations to be made by him, to rent or lease ground, within forest reservations, for sanitarium, hotel, or other purposes, in connection with the use, for health or pleasure, of mineral, medicinal, or other springs.

I have the honor to report that action in a line with this bill meets with my hearty approval, since the need for such licenses has already arisen in several cases, and, in the absence of legislative authority therefor, the Department has been compelled to deny the applications. (See instructions to this office of December 9, 1897, in the case of application by Edwin Stone and C. Sullivan for lease of certain hot springs land within the Cascade Range Forest Reserve, Oregon.)

I am, however, of the opinion that the provisions of this bill should be expanded to authorize the Secretary of the Interior, in the exercise of his discretion, to rent or lease, under rules and regulations to be made by him, lands within forest reservations for grazing or any other purposes not incompatible with the purposes for which such reservations are created.

I also deem it advisable that provision should be made for covering into the Treasury of the United States all funds arising from privileges granted under the provisions of this act as a special fund to be expended in the care of public forest reservations.

I have accordingly prepared, and inclose herewith, as a substitute for the bill under consideration, a draft of a bill expanding the scope of the same as suggested, and also amending slightly the title thereof, and I respectfully recommend that the bill, as amended, become a law.

I return herewith Mr. Lacey's letter and the inclosed bill.

Very respectfully,

BINGER HERMANN, *Commissioner.*

The SECRETARY OF THE INTERIOR.

A bill to authorize the Secretary of the Interior to rent or lease, for various purposes, lands included within forest reservations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and hereby is, authorized, under suitable rules and regulations to be made by him, to rent or lease to responsible persons or corporations, ground within public forest reservations for sanitarium, hotel, or other purposes, in connection with the use, for health or pleasure, of mineral, medicinal, or other springs, or for grazing or any other purposes not incompatible with the purposes for which such reservations are created. And the Secretary of the Interior is authorized to prescribe the terms and duration of, and the compensation to be paid for, the privileges granted under the provisions of this act.

SEC. 2. *It is further provided,* That all funds arising from the privileges granted hereunder shall be covered into the Treasury of the United States as a special fund to be expended in the care of public forest reservations.



MICHAEL MAHONEY.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9642.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9642) granting an increase of pension to Michael Mahoney, have examined the same and the evidence relating thereto and most respectfully report:

This bill as amended proposes to increase from \$8 to \$30 per month the pension of Michael Mahoney, of Hamilton, N. Y.

This soldier served from December 31, 1863, to August 1, 1865, when honorably discharged as private in Company E, Twenty-second New York Volunteer Cavalry.

He is now pensioned at \$8 per month for rheumatism, piles, and gunshot wound.

The soldier is now totally blind, very poor, 74 years of age, and of good character.

The evidence is very strong to show that he contracted his disease of eyes in the service. They have been sore and inflamed since he left the service and have grown worse until total blindness has resulted. None of his disabilities are due to vicious habits.

Considering the good service of the soldier, his wounds received in battle, his rheumatism contracted in the service, and his age, poverty, and blindness, your committee do not hesitate to grant an increase of pension to \$30 per month.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 7 strike out "fifty" and insert in lieu thereof "thirty."

STATE OF NEW YORK, *Madison County*, ss:

Michael Mahoney, of the town of Hamilton, Madison County, and State of New York, being sworn, says that he was a private in Company E, Twenty-second Regiment New York Volunteer Cavalry, in 1863-1865. He is now totally blind. He has been so since April, 1897. He contracted this disease of his eyes while he was in service at or near Winchester, Va., in March, 1865, during a protracted storm of snow and rain, and in which storm he caught cold and it settled in his eyes, and

they continued to be sore and bother him for several days; and that since that time his eyes have troubled him whenever he caught cold, and that his eyes have almost constantly discharged a watery fluid, and they have kept constantly growing worse till now, but that he could see to work until about four years ago, but since that time he has been helpless to work, on account of not being able to see.

MICHAEL (his x mark) MAHONEY.

Signed in presence of—

E. W. FULLER.

MARTHA FULLER.

Sworn to before me this 12th day of March, 1898.

A. C. BROOKS, *Notary Public*.

STATE OF NEW YORK, *Madison County, ss:*

James K. Sawdey, of Earlville, Madison County, and State of New York, being duly sworn, doth depose and say: I am well acquainted with Michael Mahoney, of Poolville, State and county aforesaid, and have been since I was a small boy. I was personally acquainted with the said Mahoney for several years prior to his enlistment into the United States civil war, and he was in good health at that time, and his eyes were healthy and well, apparently, but since his return from the war his eyes have looked red and inflamed and emitted a watery substance, and he has now become totally blind. The said Michael Mahoney was a private in Company E of the Twenty-second Regiment of New York Volunteer Cavalry, and he enlisted on or about the month of December, 1863, and was discharged August 1, 1865.

I have no interest whatever in the prosecution of this claim.

JAMES K. SAWDEY.

Subscribed and sworn to before me this 21st day of March, 1898.

A. C. BROOKS,
Notary Public, Madison County.

STATE OF NEW YORK, *Madison County, ss:*

Francis M. Saunders, of Earlville, Madison County, and State of New York, personally appeared before me, and was by me duly sworn, who deposes and says: I am well acquainted with Michael Mahoney, now of Poolville, Madison County, N. Y., and know that he was a private in Company E, Twenty-second Regiment New York Volunteer Cavalry, during our civil war, from 1863 to 1865. On or about March, 1865, at Winchester, Va., I, who was a private in Company G, One hundred and fourteenth Regiment New York Volunteer Infantry, frequently met the said Michael Mahoney, who was then in camp near me, and on one particular time, in March aforesaid, I saw him, and his eyes looked inflamed and sore, and he said he had caught cold in them. I had seen him often before this while in the Army, and his eyes never appeared to be sore. Prior to his enlistment I often saw him, and he never had sore eyes, to my knowledge; but since our discharge I worked with him in a tannery for fourteen years, and during that time, and since, his eyes seemed to emit a watery substance and looked red and sore.

Now he is totally blind and can not do any work, and his health is very poor.

I have no interest whatever in the prosecution of this claim.

FRANCIS M. SAUNDERS.

Subscribed and sworn to before me this 21st day of March, 1898.

A. C. BROOKS,
Notary Public, Madison County.

STATE OF NEW YORK, *County of Madison, ss:*

On this 21st day of March, A. D. 1898, personally appeared before me, a notary public within and for the county and State aforesaid, Michael Mahoney, aged 74 years, a resident of the town of Hamilton, county of Madison, State of New York, who, being duly sworn according to law, declares that he is the identical Michael Mahoney who was enrolled at Poolville, N. Y., on the 31st day of December, 1863, under the name of Michael Mahoney, in Company E of the Twenty-second Regiment of New York Volunteer Cavalry, commanded by ——— Perkins (captain), and was discharged at Winchester, Va., on the 1st day of August, 1865; that his personal description at enlistment was as follows: Age, 31 years; height, 5 feet 8 inches;

complexion, fair; hair, amber; eyes, blue. That while a member of the organization aforesaid, in the service and in the line of his duty at Winchester, in the State of Virginia, on or about the — day of March, 1865, he contracted a severe cold during a bad storm of rain and snow, which settled in his eyes and caused them to be very sore and painful, but not serious enough to go the hospital, and that ever since that time he has suffered more or less, and since April 1, 1897, has been totally blind. That the date of his discharge was right, but his age was not 31 years, as there was a mistake. He was not employed in the military or naval service prior to December 31, 1863. He has not been employed in the military service since August 1, 1865. Prior to his entry into the service above named he was a man of good, sound, physical health, being when enrolled a tanner. He is now wholly incapacitated for procuring his subsistence by manual labor by reason of his disability described above, incurred in the service of the United States, and he therefore makes this declaration for the purpose of being placed on the invalid pension roll of the United States.

He has received and applied for a pension. His post-office address is Poolville, county of Madison, State of New York.

MICHAEL (his x mark) MAHONEY.

Attest:

E. W. FULLER.

MARTHA FULLER.

Also personally appeared E. W. Fuller, residing at Poolville, N. Y., and Martha Fuller, residing at Poolville, N. Y., persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say they were present and saw Michael Mahoney, the claimant, sign his name (or make his mark) to the foregoing declaration. They have every reason to believe, from the appearance of said claimant and their acquaintance with him of two years, that he is the identical person he represents himself to be; and that they have no interest in the prosecution of this claim.

E. W. FULLER.

MARTHA FULLER.

Sworn to and subscribed before me this 21st day of March, A. D. 1898.

A. C. BROOKS, *Notary Public*.

STATE OF NEW YORK, *County of Madison, ss:*

On this 21st day of March, A. D. 1898, personally appeared before me, a notary public within and for the county and State aforesaid, Micheal Mahoney, aged 74 years, a resident of Poolville, county of Madison, State of New York, who, being duly sworn according to law, declares that he is a pensioner of the United States, enrolled at the Buffalo pension agency at the rate of \$8 per month, by reason of disability from rheumatism, piles, and gunshot wounds incurred in the military service of the United States while a private in Company E, Twenty-second Regiment New York Cavalry. He believes himself to be entitled to an increase of pension on account of loss of eyesight, which was contracted in March, 1865, at or near Winchester, Va., having caught a severe cold during a storm of snow and rain, and in consequence of which he has been troubled more or less ever since, and since April, 1897, he has been totally blind, and he is unable to do any work or even wait on himself. The number of his pension certificate is 429039. Post-office address is Poolville, county of Madison, State of New York.

MICHAEL (his x mark) MAHONEY.

Attest:

E. W. FULLER.

MARTHA FULLER.

Also personally appeared E. W. Fuller, residing at Poolville, N. Y., and Martha Fuller, residing at Poolville, N. Y., persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say they were present and saw Michael Mahoney, the claimant, sign his name (or make his mark) to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him of two years, that he is the indential person he represents himself to be; and that they have no interest in the prosecution of this claim.

E. W. FULLER.

MARTHA FULLER.

Sworn to and subscribed before me this 21st day of March, A. D. 1898.

A. C. BROOKS, *Notary Public*.

[The text on this page is extremely faint and illegible. It appears to be a multi-paragraph document, possibly a letter or a report, written in a cursive or semi-cursive hand. The ink is very light, and the paper shows signs of age and wear.]

CLASS OF PERSONS WHO SHALL RECEIVE PENSIONS.

APRIL 4, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5167.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5167) proposing to limit the class of persons who shall receive pensions, have examined the same and considered the principles involved and respectfully report:

The bill, as amended by your committee, deals with two classes of pensions:

First. Those who draw pensions under the provisions of the act of June 27, 1890.

Second. Those who draw pensions as the minor children of soldiers, sailors, or marines.

It can not be seriously doubted that the authors of the act of June 27, 1890, intended to provide a reasonable amount of assistance from the Government to those soldiers, sailors, and marines who require aid on account of their inability, by reason of mental or physical infirmities, to perform manual labor and thereby provide a reasonable sustenance for themselves and their families.

That act does not provide a service pension, for the amount allowed is not graded by length of service (except that those who served less than ninety days are excluded from its benefits), but by the extent of the inability of the soldier, sailor, or marine to perform manual labor. So when that act deals with widows, the amount of pensions allowed is not measured or limited by the service of the soldier, etc. (except as to the ninety-day provision), but by the income of the widow.

Not being a service pension, it is evident that said act was intended to assist the needy, those dependent on their manual labor for a living, and hence it was that the amount allowed is graded according to the mental or physical inability of the soldier, sailor, or marine to win bread and provide clothing in the ordinary way—by manual labor.

So long as the soldier, without property or means of support other than his daily manual labor, is limited to \$6 per month, in case he is

only able to perform one-half the manual labor of an able-bodied man by reason of some mental or physical disability, it does not seem exactly just that one who is in the possession of a large property or income from other sources, an income sufficient to support himself and family in a comfortable manner, although also physically disabled from the performance of manual labor to an equal degree, shall draw the same amount of pension. This is not granting a pension to assist the needy old soldier, or one who received and suffers from wounds received or other disabilities incurred in the service, but is allowing it on the ground that the soldier can not perform manual labor by reason of causes arising long after his military service terminated, regardless of his necessity. Therefore, for the same reason, inability to perform manual labor, a soldier who never performed any and who has a profession which he follows and from which he draws a large income, or has a large property and an ample income, is treated the same as the one entirely dependent on his manual labor for support.

The bill, as amended, does not affect those who draw or are entitled to a pension by reason of disability incurred in the service of their country.

It says that a person who does not suffer from a disability incurred in the service of his country shall not draw a pension so long as he has "means, property, business, salary, or employment of any kind, yielding him an annual net income of one thousand dollars or more."

In the judgment of your committee there is no reason why, under the act of June 27, 1890, he should. It can not be said that such a person needs the pension; he is not entitled to it by reason of any wound or disability incurred in the service, and it can not be claimed that he is entitled to a service pension until a general law is written upon the statute book giving to all soldiers, sailors, and marines a service pension.

The proviso says that when such income falls below \$1,000 the payment of the pension shall be resumed.

WIDOWS.

The original second section of the bill, in the following words: "That no widow of any soldier or sailor who shall become such hereafter, having married such sailor or soldier after the passage of this act, shall receive, as such widow, any pension from the Government," is stricken out without any attempt to amend the same, for the reason that on a test vote in this committee on that question, heretofore had, there was a majority of one against the bill, notwithstanding the fact that the Senate has already passed a similar bill.

Thirty-two years have passed since the close of the war of the rebellion, and with very few exceptions the youngest of the soldiers, sailors, and marines who served in that war are now upward of 50 years of age. There is much good reason for contending that women who hereafter marry these soldiers shall not be pensionable on account of such army service. It is not infrequent that a woman of little, if any, character looks up an old, battle-scarred, or diseased soldier who is on the very verge of the grave, and marries him and secures a marriage certificate. She then abandons the soldier husband and does not reappear until he is in the grave, when she at once applies for a pension as his widow, proves that she is the widow, and that the soldier or sailor died of disabilities incurred in the service, when she is at once placed on the pension roll at \$12 per month for the remainder of her life.

Seven of your committee think this evil should be remedied. On the other hand, it is said that if a woman now marries an old soldier and nurses and cares for him the remainder of his days she ought to be pensioned. These remarks are made here by way of suggestions. Possibly a provision can be made by which women who hereafter marry soldiers, but do not live with their husbands, shall not be entitled to the benefits of the pension laws; also a provision cutting off those who marry after the soldier has reached the age of 60 or 65 years.

In this connection the following facts are of interest: Seven surviving soldiers of the war of 1812 now draw pensions, while 2,810 widows of soldiers who served in that war are on the pension rolls; 2,373 survivors of the Indian wars of 1832 to 1842 now draw pensions, while 4,288 widows of soldiers who served in these Indian wars are now on the pension roll.

Many wonder why it is that while the veterans of the late civil war are so rapidly answering the last roll call and dropping from the pension roll, still the number of pensioners is constantly increasing. This fact is heralded as evidence of fraud.

It is well to remember that the pension roll is constantly being largely reinforced by the widows, and that quite a proportion are not war widows. But few old soldiers escape leaving a widow, for the reason above given. Marriages of affection, whatever the age of the parties, are not to be discouraged, but the marriages of young women to broken-down and aged soldiers, that they may thereby get a Government position on the pension roll for life are.

Section 3 of the bill is stricken out, as no good reason appears why the worthy widow of a soldier or sailor entitled to an accrued pension shall forfeit same by remarriage. Such a provision would not encourage marriage, but impose a penalty for that honorable act. As to all pensions, or right to a pension not accrued, the same is forfeited under the provisions of existing law by the remarriage of the soldier's widow, who by that act, honorable and praiseworthy, is supposed to elect a new support. Again, it prevents an unworthy man from seeking marriage with the widow of a soldier or sailor for the purpose of living upon or sharing her pension.

Section 4 is consolidated with and embraced in section 1 as amended.

MINOR CHILDREN.

Section 5 of the original bill is stricken out and section 2 of the amended bill substituted therefor.

The provision of the general pension laws that gives a pension of \$2 per month to the widow of a soldier, in addition to her pension as such widow, on account of each minor child during the minority of the child or children, and which, on the death or remarriage of the widow, gives or continues her pension to such minor child or children during minority, was intended, in the opinion of some of your committee, as a trust provision, or provision in the nature of a trust, for the benefit of the child or children during their minority, and this provision was made to provide for the education and maintenance of such minors during the years when they are not supposed to be able to support, maintain, care for, and educate themselves.

When the purpose or object of this trust is otherwise attained, when the trust is otherwise fully answered without drawing or using or calling upon the trust fund, it is contrary to the principles of equity that the cestui que trust at a later period be allowed to call upon or

draw from the trust fund. The purpose having been fully answered, the trust terminates. In many cases the minor child or children of a soldier have not during minority drawn the pensions to which entitled. They have been otherwise provided for, maintained, and educated. Their guardians, or persons in loco parentis, having their care have not seen fit to take the bounty of the Government, and now in some cases persons 25 and even 40 years of age, well educated, and well to do in life, are applying for and demanding the payment of hundreds and even thousands of dollars of pension money which, they claim, accrued their due while they were infants, but which was not applied for, was not necessary for their support or education. Under the provisions of existing law these sums must be paid.

Section 2 of the amended bill provides that all arrearages of pension money hereafter accruing not paid to the infant or his or her guardian during infancy must be applied for within one year after reaching the full age of 21 years, and all such moneys accrued, due, must be applied for on or before January 1, 1899. This is a compromise, and only goes a little way, but it is just and wise so far as it does go. It cuts off no application already made. It gives nine months' notice to those who have not applied, and gives every minor one year after reaching his majority in which to apply for any sum due him or her. The claims of insane, idiotic, or helpless children are not affected.

The bill is reported back with the recommendation that it pass when amended by omitting the parts stricken through and adding the parts printed in italics.



FORT BLISS MILITARY RESERVATION.

APRIL 4, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. COX, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 2592.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2592) donating the old abandoned military reservation known as Fort Bliss, situated in El Paso County, to the county for a poor farm and hospital, after due consideration report the same back to the House with the recommendation that it do pass with the following amendments, viz:

In line 5, section 1, after the word "reservation," insert the words "except such lots as have heretofore been sold by the War Department."

In line 7, after the word "County," insert the words "subject to any legal rights of those who have heretofore purchased lots on said reservation."

The committee further report that this bill has been submitted to the Secretary of War for his approval, and on March 15, 1898, the Secretary states that—

No objection is known to the Department to the proposed legislation, provided the bill shall be amended as suggested by the Judge-Advocate-General.

The above amendments are the amendments so suggested.

On March 7, 1898, the Quartermaster-General United States Army, also reported to your committee on this subject as follows, viz:

The remaining unsold lots and improvements are not needed by this Department. Their appraised value is \$8,056. The Government is now paying \$720 per annum for the care of the reservation.

He further states that lots 1, 2, 3, 4, 5, 6, 12, 21, 22, 24, and 25 have been sold by the War Department in no case at less than appraised value. The unsold lots ceded by this bill are lots Nos. 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, and 23.

Your committee find that this fort has been abandoned for several years, and that the buildings thereon are old and in bad repair.

SUSPENSION OF SECTION 355, REVISED STATUTES.

APRIL 4, 1898.—Ordered to be printed.

Mr. CANNON, from the Committee on Appropriations, submitted the following

REPORT.

[To accompany S. R. 129.]

The Committee on Appropriations, to whom was referred the Senate joint resolution (S. R. 129) entitled a "Joint resolution relative to suspension of part of section three hundred and fifty-five of Revised Statutes, relative to erection of forts, fortifications, and so forth," having considered the same, report it back herewith with the recommendation that it do pass.

○

LOUISE M. RICE.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1476.]

The Committee on Invalid Pensions, to whom was referred the bill S. 1476, and also the bill H. R. 2650, have examined the same and all the evidence, and respectfully report the Senate bill.

This bill proposes to increase, from \$30 to \$50 per month, the pension of Louise M. Rice, of Oskaloosa, Iowa.

This claimant is the widow of Brig. Gen. Samuel A. Rice, who was mustered into the service as colonel Thirty-third Iowa Volunteer Infantry October 1, 1862. He commanded brigades and divisions, participated in many important engagements, showed great capacity and bravery, and was wounded in battle April 30, 1864, from the direct effect of which wounds he died July 6, 1864. He was recommended for the brevet rank of major-general because of his meritorious services.

He was the only general officer from the State of Iowa whose death was directly caused by wounds received in battle.

His widow is now 67 years of age, in necessitous circumstances, in very poor health, and has no income except her pension of \$30 per month, which she draws under the general law.

The case is most meritorious and as worthy as the cases of the widows of General Leggett and Commander Cushing, already reported from this committee and approved by the House.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Rice," insert "and pay her a pension."

Amend the title so it will read: "An act granting an increase of pension to Louise M. Rice."

COMMITTEE ON THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 26, 1898.

DEAR SIR: Referring to the bill (H. R. 2650) for relief of Mrs. Louise M. Rice, widow of Bvt. Maj. Gen. and Brig. Gen. Samuel A. Rice, I wish to say that Mrs. Rice is very poor and wholly dependent upon her pension.

Respectfully,

JOHN F. LACEY.

Col. GEORGE W. RAY,
Chairman Committee on Invalid Pensions.

ADDITIONAL COPIES OF "MAINE" MESSAGE.

APRIL 4, 1898.—Ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT.

[To accompany House Con. Res. No. 27.]

The Committee on Printing, having had under consideration House resolution No. 277, beg leave to report the following in lieu thereof, and ask that the same be agreed to:

*Resolved by the House of Representatives (the Senate concurring), That there be printed twenty thousand copies of the message of the President of the United States, dated March twenty-eighth, eighteen hundred and ninety-eight, together with the report of the naval court of inquiry upon the destruction of the United States battle ship *Maine* in Havana Harbor, February fifteenth, eighteen hundred and ninety-eight, and the testimony taken before the court, thirteen thousand five hundred copies for the use of the House of Representatives and six thousand five hundred for the use of the Senate.*

The Public Printer estimates the cost of this work at \$3,560.

○

BRIDGE OVER BLACK RIVER, POCAHONTAS, ARK.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany S. 3457.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3457) to authorize the construction of a bridge over the Black River at or near Pocahontas, Ark., having had the same under consideration, report the bill favorably, with the recommendation that it do pass.

The report of the Chief of Engineers, United States Army, relating to the interests of navigation as affected by this bill, is hereto attached and made a part of this report.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, February 19, 1898.

SIR: I have honor to acknowledge the reference to this office of a letter, dated the 1st instant, from the Senate Committee on Commerce, inclosing, for the views of the War Department thereon, S. 3457, Fifty-fifth Congress, second session, "A bill to authorize the construction of a bridge over the Black River at or near Pocahontas, Arkansas," and in returning the same I beg to say that, in my opinion, ample provision is made by the bill for the protection of navigation interests, and, so far as those interests are concerned, I know of no objection to its passage by Congress.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, United States Army.

Hon. R. A. ALGER,
Secretary of War.

BRIDGE ACROSS THE COLUMBIA RIVER.

APRIL 4, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 5527.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5527) to amend an act entitled "An act to authorize the Oregon and Washington Bridge Company to construct and maintain a bridge across the Columbia River between the State of Oregon and the State of Washington, and to establish it as a post road," having had the same under consideration, recommend the passage of the bill with the following amendments:

In line 16 strike out "two years" and in place thereof insert "one year;" also strike out the word "from" in the same line.

Strike out all of line 17 except the word "and" at the end of the line.

In line 19 strike out the word "four" and in place thereof insert the word "three;" also strike out the last three words, "twenty-fourth day," in same line.

Strike out all of line 20 and in place thereof insert the words "date of approval of this act."

The report of the Chief of Engineers, United States Army, is hereto attached and made a part of this report.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, January 26, 1898.

SIR: I have the honor to return herewith a letter, dated the 22d instant, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for the views of the War Department thereon H. R. 5527, Fifty-fifth Congress, second session, "A bill to amend an act entitled 'An act to authorize the Oregon and Washington Bridge Company to construct and maintain a bridge across the Columbia River between the State of Oregon and the State of Washington, and to establish it as a post road.'"

The object of this bill is to revive and keep in force an act approved March 24, 1890, authorizing the construction of a bridge across the Columbia River. As the original act affords ample protection for the interests of the United States in the matter, I know of no objection to the passage of the bill by Congress.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, U. S. Army.

Hon. R. A. ALGER, *Secretary of War.*

BRIDGE ACROSS YALOBUSHA RIVER, MISSISSIPPI.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. HINRICHSSEN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 8569.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 8569) providing for the construction of a bridge across the Yalobusha River, between Leflore and Carroll counties, in the State of Mississippi, having had the same under consideration, report the bill favorably, with the recommendation that it do pass with certain amendments indicated in the body of the bill, as suggested in the report of the Chief of Engineers, United States Army, which is hereto attached and made a part of this report.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, March 4, 1898.

SIR: I have the honor to return herewith a letter, dated the 1st instant, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing, for the views of the War Department thereon, H. R. 8569, Fifty-fifth Congress, second session, "A bill providing for the construction of a bridge across the Yalobusha River, between Leflore and Carroll counties, in the State of Mississippi," and in reply to its reference to this office I beg to recommend certain amendments to the bill, which are indicated on a copy of the same herewith.

As thus amended, I know of no objection to the passage of the bill by Congress, so far as the interests of navigation are concerned.

Very respectfully, your obedient servant,

A. MACKENZIE,
Acting Chief of Engineers.

Hon. R. A. ALGER,
Secretary of War.

JOSEPH C. BERRY.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6379.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6379) increasing the pension of Joseph C. Berry, have examined the same and all the evidence relating thereto and respectfully report:

This bill, as amended, proposes to increase from \$30 to \$50 per month the pension of Joseph C. Berry, of Mexico, Mo., who served under the name of James White, as private in Company K, Eighth Iowa Volunteer Infantry, from September 21, 1861, to September 28, 1864, when honorably discharged.

The records show that he was captured at Shiloh, Tenn., April 6, 1862, paroled May 22, 1862. It also appears from the records that he was treated while in the service for scrofula, remittent fever, and diarrhea.

It appears from evidence filed in the Pension Office that he also had smallpox while in the service. He filed a claim under the general law March 9, 1885, alleging smallpox and typhoid fever, affecting whole system; also disease of lungs, spinal affection, deafness, and kidney trouble.

The claim was submitted for paralysis, result of disease of kidneys and spine, by an examiner, in 1888, and approved by legal reviewer and rereviewer, for disease of back; and was also approved by a medical examiner, medical reviewer, and the medical referee, for disease of back and resulting paraplegia, \$50; but it was learned that he had received an injury of the back at some time since discharge, and that approval was cancelled, and in 1889 it was briefed and approved, legally, for disease of urinary organs (eliminating any results caused by spinal injury); reject spinal trouble and paralysis on the ground that they are the result of an injury received by fall from a scaffold in 1880; reject lung disease and deafness on the statement of claimant that they originated subsequent to his discharge from service. It was then approved medically for disease of urinary organs, four-eighths (disability for which rated largely due to other than pensioned cause). On this

approval he was pensioned at \$4 per month from March 10, 1886. He was increased to \$8 from September 22, 1890; to \$17 from October 1, 1891; to \$30 from October 12, 1892. Since the allowance of the \$30 rate, two applications for increase have been rejected, and paraplegia claimed as result has not been so accepted.

It seems evident from the first approval of this case that the man must have incurred injury or disease of back in the service, and that he must have established that fact and the fact of the continuance of a disability therefrom since discharge. Had he not done so it would not have been legally approved for disease of back. After that approval was made it was learned that about 1880 he received an injury of the back by falling from a scaffold, and then it was held that his entire disease of spine and paralysis were due to that injury, in spite of the fact that origin and continuance of disease of back in service and up to that time had been alleged, proved, and admitted.

This man is now in a terrible condition, as shown by the evidence furnished and by the certificates of examinations; the last of which, made June 11, 1897, and which would cover five typewritten pages, shows that he has no control over the sphincters of bladder and rectum. His lower limbs are absolutely helpless. He has not walked for sixteen years; is able to be moved about in a wheel chair; weighs only 75 pounds; he is unable to retain his urine at all for any time. His bladder is in a terrible condition, and only with the greatest trouble can he void his urine. One physician says:

The spine is curved, and the muscles of the back wasted. He says that this curvature existed, and that he had very little use of his lower limbs five or six years previous to the fall from the scaffold, since which time he has been totally paralyzed in the lower extremities. Looking at him from crest of ilia downward he is pitiful to behold.

The claimant is so totally and permanently helpless from kidney and bladder disease and paralysis that he requires the regular and personal aid and attendance of another person, and is entitled to the first-grade rate (\$72). Disabilities not due to vicious habits.

The examining surgeon says he believes claimant tells the truth.

This man evidently suffers from a disability of service origin that entitles him to a pension of \$50 per month. The bill is therefore reported back with the recommendation that it pass when amended, as follows:

After the word "pension," in line 6, insert "at the rate."

In line 7, strike out "seventy-two," and insert in lieu thereof "fifty."



LAFAYETTE TIBBETTS.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 509.]

The Committee on Invalid Pensions, to whom was referred the Senate bill No. 509, have examined the same and the evidence and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of Lafayette Tibbetts, of Manchester, N. H.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 509) granting an increase of pension to Lafayette Tibbetts, have examined the same, and report:

The beneficiary under this bill is hopelessly insane and confined in the State insane asylum at Concord, N. H. In his original declaration it is alleged that at Chapins Farm, Virginia, in March, 1865, he was taken ill from fever and ague, and that he had suffered continuously from that time from malarial poisoning, resulting in attacks of partial paralysis, general debility, and kidney disease. The records show that he was in hospital from March 24, 1865, and from March 25 to June 2, 1865. Two of his comrades testify to the origin of the disease in the service as alleged, and that while in hospital his lower limbs became numb and partially paralyzed.

This claim not having been allowed under the general law, the soldier applied February 27, 1893, under the act of June 27, 1890, alleging malarial poisoning, chills and fever, and resulting paralysis, locomotor ataxia, rheumatism, and heart disease. This claim was allowed January 5, 1895, at \$6 per month, for rheumatism, disease of heart and nervous system, and the bill was increased to \$12 per month from August 13, 1895, for rheumatism, disease of heart and nervous system, and insanity. Several medical examinations show that the patient was in a very bad physical condition prior to the insanity, and it is safe to assume that the condition of his nervous system, as a result of disease contracted in the service, had much to do with unbalancing the brain. The following statement from Dr. C. P. Bancroft, superintendent of the New Hampshire asylum, dated February 16, 1897, sets forth the present hopeless condition of the soldier:

"I understand that Captain Tibbetts was in the service during three years of the war; that he was exposed to much hardship both in the way of battle and march, and suffered the usual exhausting and depressing effects from a particularly hard service. I think there is very little doubt but that this strain upon his physical and nervous organization has undoubtedly furnished one cause for his early mental and physical impairment. The case presents a history of gradual and progressive failure for the last seven years. He has a very marked loss of power in his lower

extremities, so much so that he can not walk without some assistance. This is evidently a slow and gradually increasing paresis of all the muscles of the lower extremities. I believe the condition is due to organic changes in the cord and brain, and that the case is incurable. He is entirely incapacitated from doing anything, and will necessarily be a constant burden upon someone. I believe that his case is a deserving one for increase of pension, for I question very much whether a man with his naturally rugged and vigorous constitution would have succumbed so early to organic disease of the character that he has had there not been this severe shock and strain which he endured during his army service."

In view of the fact that the soldier was sick while in the service from a disease that resulted, according to the medical examinations, in a nervous condition that might well predispose to insanity, your committee are of opinion that he is justly entitled to a substantial increase of pension. A medical examination made by the board at Manchester, N. H., under date of March 23, 1892, gives the soldier a high rating for disease of spinal cord and malarial poisoning, while another examination, made April 12, 1893, gives him a rating for chills and fever, weak heart, locomotor ataxia, and rheumatism. Thus it appears that the brain and spinal column were affected, and it seems reasonably clear that those disabilities were associated with the malarial poisoning which is directly traceable to army service.

In consideration of the age and present condition of soldier, both physically and financially, and of his long and faithful service, your committee report back the Senate bill with the recommendation that it pass.



ZOLMAN TYRRELL.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 908.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 908) granting a pension to Zolman Tyrrell, having had the same under consideration, report as follows:

This bill proposes to pension, at \$15 per month, Zolman Tyrrell, of Delhi, N. Y.

Lewis R. Tyrrell, father of the beneficiary of this bill, served from September 1, 1864, to July 3, 1865, when he was honorably discharged. He applied for pension and was pensioned under the general laws for hemorrhoids following typhoid fever, and was receiving \$12 per month in 1894, when he died, leaving neither widow nor minor child. It is probable that his death was due to causes arising in the service, though it is not shown; and no one has pensionable status under existing law on account of his service.

The son, Zolman Tyrrell, is now 35 years of age, is utterly helpless, can not speak a word, can not dress or feed himself, and is idiotic, and has been in this condition all his life, his idiocy having been caused by spasms in infancy. He has no property, no income, and is dependent on and supported by a brother who works by the day for his living, and is not able to care for this helpless son of a soldier. This is a meritorious bill, and the committee recommend that it do pass with the following amendments:

In line 5 strike out the word "imbecile" and insert in lieu thereof the word "idiotic."

In line 7 strike out the words "of fifty" and insert in lieu thereof the words "at the rate of fifteen."

Add after the word "month," in line 7, the words "to be paid to a duly appointed guardian."

Strike out section 2.

Amend the title so it will read: "A bill granting a pension to Zolman Tyrrell."

JAMES W. HARDIN.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 685.]

The Committee on Military Affairs, to whom was referred House bill No. 404, submit the following report:

The facts in the case show that James W. Hardin is a man of most excellent character in every respect, and has the esteem of neighbors and fellow-citizens.

The records of the War Department show that he enlisted as a private in the Seventh Indiana Light Artillery on April 5, 1862, volunteering to serve for three years. On June 26, 1862, he absented himself without proper leave, believing, however, he did have authority to leave for the purpose of making some provisions for his family which was in destitute circumstances and not far from where his command was then stationed. He remained at home about one week and then started back to his command. He found he was cut off from his command by the enemy.

He then went to the Sixth Tennessee Union Cavalry and served as a soldier in that regiment, but was not mustered into the same. While serving in that regiment he was captured by the enemy and paroled. While on parole he moved his family to Illinois, and there remained, without any notice whatever as to his exchange; in fact, was never exchanged. The evidence further shows that after he went to Illinois he was taken sick and was never able for service any more. He thought his duty was to observe his parole, and, if he had been able to do duty, he thought he was bound to obey his parole of honor.

The evidence further shows that up to this time he had been in quite feeble health and totally unfit for service as a soldier.

The committee are of opinion that there was no intention to desert, and believe he is entitled to the relief asked in the bill, with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

FRANK ROCKWITH.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 619.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 619) granting an increase of pension to Frank Rockwith, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$24 per month the pension of Frank Rockwith, of Saginaw, Mich.

This man served in the United States Navy from December 21, 1861, to November 24, 1862, when honorably discharged.

There is record of his treatment while in service for malarial fever, but no record of any other disability. He filed a claim under act of June 27, 1890, and was pensioned thereunder at \$6 from October 31, 1891, and \$12 from February 16, 1894, for rheumatism, disease of heart, dislocated shoulder, piles, and paralysis agitans.

August 29, 1892, he filed a claim under the general law for rheumatism, piles, and palsy, which was rejected March 28, 1896, on the ground of his inability, though aided by special examination, to furnish satisfactory evidence showing the origin and continuance of alleged disabilities. He is described by examining board at Bay City, Mich. (April 11, 1894), as being a physical wreck, totally and permanently disabled from performing manual labor, and will probably live but a few years.

The claimant is a man of good character, very poor, totally disabled, and has no one on whom he can rely for support.

An increase to \$24 per month is fully justified, and the bill is reported back with the recommendation that it pass, when amended as follows:

In line 7, after the word "roll," insert "and pay him a pension."

In line 7, strike out the word "fifty" and insert in lieu thereof the word "twenty-four."

COMMITTEE ON INVALID PENSIONS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 29, 1898.

I know Frank Rockwith, of Saginaw, Mich. He is a man of good character. He owns no property and has no income. He is a man of good character and has no vicious habits.

He was a physician, but can no longer do anything to assist himself either professionally or by his manual labor; and all of the above statements I know of my own personal knowledge.

FERDINAND BRUCKER, *Michigan.*

Hon. GEORGE W. RAY, *Chairman.*

SAGINAW, MICH., *November 24, 1897.*

This certifies that I have examined Dr. Frank A. Rockwith's eyes very carefully and find a condition of the optic nerve and retina that reduces his eyesight below a point where it is possible for him to properly follow his profession. There has undoubtedly been a retinitis, which is now being succeeded by atrophy. In addition, he has hypertrophic astigmatism, with great weakness of internal recti muscles.

D. B. CORNELL, M. D.

STATE OF MICHIGAN, *County of Saginaw, ss:*

Frank A. Rockwith, being duly sworn, deposes and says that by profession he is a physician and surgeon; his condition is steadily growing worse; the paralysis agitans, or Parkinson's disease as it is otherwise called, with which he is afflicted is a progressive disease; during the last year it has steadily progressed so that he can write his name only with great difficulty; he has not for more than a year past been able to dress or undress without assistance, and he is steadily growing more helpless. Deponent further says that his eyesight is at present so poor that coupled with his other ailments he is a total wreck. He can not, by reason of his said maladies, any longer follow his said profession successfully, he being totally disqualified from performing an operation of any importance or difficulty; he can not drive and hence can not follow his said profession as a physician; and further, his physical condition is such that he can not perform manual labor of even the lightest nature, nor successfully follow his said profession.

FRANK A. ROCKWITH, M. D.

Subscribed and sworn to before me this 1st day of December, A. D. 1897.

[SEAL.]

DUNCAN W. GOODING,
Notary Public in and for the County of Saginaw, State of Michigan.

STATE OF MICHIGAN, *County of Saginaw, ss:*

Dr. J. W. McMeekin, being duly sworn, deposes and says that he is by profession a physician and surgeon; he is a graduate of McGill University, Montreal, Canada (1885), and has practiced his said profession for a period of twelve years; on the 24th day of November, A. D. 1897, he reexamined Dr. Frank A. Rockwith, whom he had examined over a year ago, and upon said reexamination on the 24th day of November, A. D. 1897, he found all the symptoms of his disease, to wit, paralysis agitans, or "Parkinson's disease," as it is otherwise known, very greatly aggravated and in a much more severe and serious form; he found more or less paralysis of the left side, involving the arm and peroneal muscles of the leg; the tremors were very extensive; there was tremor of the lower jaw alternating with clonic spasm; his body bends forward, and the patient has to keep chewing something to keep the chin and jaw quiet; there was extensive anæsthesia over the left side; there was some lumbar sclerosis at second and third lumbar vertebræ; pressure over these vertebræ will bring the patient to his knees. Deponent further says that the said Dr. Frank A. Rockwith is totally debilitated and incapacitated for any and all kinds of labor or professional work; that he has hemorrhoids very severely; his eyesight is much impaired, and altogether he is a perfect invalid and permanently and completely incapacitated for work.

JAS. W. MCMEEKIN, M. D.

Subscribed and sworn to before me this 9th day of December, A. D. 1897.

[SEAL.]

HARVEY A. PENNEY,
Notary Public in and for the County of Saginaw, State of Michigan.

STATE OF MICHIGAN, *County of Saginaw, ss:*

Dr. D. B. Cornell, being duly sworn, deposes and says that he is by profession a physician and surgeon; that he is a graduate of the Detroit College of Medicine, class of 1889; he has practiced for a period of eight and one-half years; during the last eight and one-half years he has limited his practice exclusively to diseases of the

eye, ear, nose, and throat; on the 24th day of November, A. D. 1897, he examined Dr. Frank A. Rockwith's eyes very carefully and found a condition of the optic nerve and retina that reduces his eyesight below a point where it is possible for him to properly follow his profession; there has undoubtedly been a retinitis, which is now being succeeded by atrophy. Deponent further says that the said Dr. Frank A. Rockwith has hypertrophic astigmatism, with great weakness of internal recti muscles.

And further deponent saith not.

D. B. CORNELL, M. D.

Subscribed and sworn to before me this 8th day of December, A. D. 1897.

[SEAL.]

LOUIS G. NERRETER,

Notary Public in and for the County of Saginaw, State of Michigan.

SAGINAW, MICH., November 24, 1897.

To whom it may concern:

I have this day reexamined Dr. F. A. Rockwith, whom I examined over a year ago, and find all the symptoms of his disease, "paralysis agitans" (Parkinson's disease), very greatly aggravated, and in a much more severe and serious form. There is more or less paralysis of the left side, involving the arm and peroneal muscles of the leg. The tremors are very extensive now. There is tremor of the lower jaw alternating with clonic spasm. The body bends forward and the patient has to keep chewing something to keep the chin quiet. There is extensive anæsthesia over left side. Some lumbar sclerosis at second and third lumbar vertebræ. Pressure over these vertebræ will bring the patient to his knees. He is totally debilitated and incapacitated for any and all kinds of labor or professional work. He has hemorrhoids very severely and eyesight much impaired. Altogether he is a perfect invalid and permanently and completely incapacitated for work, and is very evidently a fit subject for the further attention of our Government.

Respectfully,

JAS. W. McMEEKIN, M. D., C. M.

STATE OF MICHIGAN, *County of Saginaw, ss:*

In the pension claim of Frank A. Rockwith, personally came before me, a notary public in and for aforesaid county and State, James W. McMeekin, a resident of Saginaw, in the county of Saginaw, State of Michigan, who, being duly sworn, declares in relation to the aforesaid case as follows: I have known him about two years in a professional way, having been consulted by him about two years ago; he is suffering from paralysis agitans, otherwise known as "Parkinson's disease." I have now examined him three times, and find him much worse each succeeding time. He is now very much worse than when I examined him two years ago; the symptoms are all very much aggravated. He now has to keep chewing something to keep his chin quiet. His hands are in constant motion except when under the influence of medicine and while in bed; but the tremor is now coming on him while in bed. He has sclerosis of third lumbar. He is now broken out with a herpetic eruption over the breast due to the action of "hyoscine," which he has to take continually. He suffers very severely from coxalgia. His eyesight has been referred to by Dr. Cornell. Paresis of external perineal nerve on left side—the case started on the right side and has now passed over to the left. He is also suffering very much from hemorrhoids—about the same as last time I examined him. There is the backward stagger very prominent. The patient is a great sufferer, is perfectly helpless, and unable to obtain a living by his profession; he has now to relinquish practice entirely; he has considerable varicosity of the veins of the left leg; there is also albumen in urine to a moderate amount—about 10 per cent. The applicant is certainly in a most deserving way for assistance.

And he further declares that he has no interest in said case, and is not concerned in its prosecution.

JAS. W. McMEEKIN, M. D.

Sworn to and subscribed before me this day; and I hereby certify that the affiant is a practicing physician in good professional standing; that I am in no wise interested, either directly or indirectly, in the prosecution of this claim; and that I read the foregoing affidavit to the affiant and acquainted him with its contents before he executed the same.

Witness my hand and official seal this 23d day of March, 1898.

[SEAL.]

DUNCAN W. GOODING,

Notary Public, Saginaw County, Michigan.

HOURS OF LABOR ON PUBLIC WORKS OF UNITED STATES, ETC.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. GARDNER, from the Committee on Labor, submitted the following

REPORT.

[To accompany H. R. 7389.]

The Committee on Labor, to whom was referred the bill (H. R. 7389) entitled "A bill limiting the hours of daily service of laborers, workmen, and mechanics employed upon the public works of or work done for the United States, or any Territory, or the District of Columbia," report the same back to the House with the recommendation that the bill be passed with the following amendments:

Insert a "comma" after the word "of," in the second line of title.

Section 1, line 4, insert a "comma" after the word "of," and in line 12 insert a "comma" after the word "of," where it appears the second time.

Section 2, lines 5 and 6, strike out the words "on any public work," and insert a "comma" after the word "mechanics," in line 5.

There are three positions which the Government may take with regard to labor.

First. A friendly attitude, indicated by advanced legislation enforced in the spirit of the law.

Second. A position of indifference, which was the practice of our Government before recent enactments, indicated by conforming to the practice of the locality where labor was employed.

Third. One of antagonism, indicated by going into the "labor market" to employ men at the lowest wages and for the longest hours possible. This, in a general way, has been the policy of private employers, and indicates the line of "antagonism between labor and capital." This position this Government never has assumed, and, for obvious reasons, never will. So we are to choose between the first and second of these positions.

The proportion of labor employed by the Government is so small a percentage of the labor of the country that the legislation of Congress can do little more directly than fix the Government's attitude as friendly, indifferent, or hostile. The influence of the example, however, may be far-reaching.

2 HOURS OF LABOR ON PUBLIC WORKS OF UNITED STATES, ETC.

The Government of the United States is committed to the principle of an eight-hour day to the fullest extent that it can be by legislative precedent, covering a period of thirty years, during which a series of "eight-hour laws" have been passed, no one of which has ever been repealed or modified.

On June 25, 1868, an act entitled "An act constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States" became law. It reads as follows:

"Be it enacted, etc., That eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed or who may be hereafter employed by or on behalf of the Government of the United States; and that all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed."

This act, while very brief, was intended to be very sweeping. The spirit, if not the terms, of this act was disregarded or not understood by Government officials, which moved President Grant, on May 19, 1869, to issue a proclamation directing the enforcement of the eight-hour law of June 25, 1868, as follows:

"That from and after this date no reduction shall be made in the wages paid by the Government by the day to such laborers, workmen, and mechanics on account of any such reduction of hours of labor."

Then, and for years after, there appeared to be no clear comprehension of the purposes of the act. There was almost entire absence of uniformity in its administration by Government officials, and on May 11, 1872, President Grant issued a second proclamation, reciting his proclamation of May 19, 1869, and which contains the following:

"And whereas it is now represented to me that the act of Congress and the proclamation aforesaid have not been strictly observed by all officers of the Government having charge of such laborers, workmen, and mechanics: Now, therefore, I, Ulysses S. Grant, President of the United States, do again call attention to the aforesaid act, and direct all officers of the Executive Department of the Government having charge of the employment and pay of laborers, workmen, and mechanics employed by or on behalf of the Government of the United States to make no reduction in the wages paid by the Government, by the day, to such laborers, workmen, and mechanics on account of the reduction of the hours of labor."

May 18, 1872, the following became a law:

"SEC. 2. That the proper accounting officers be, and hereby are, authorized and required in the settlement of all accounts for the services of laborers, workmen, and mechanics employed by or on behalf of the Government of the United States between the twenty-fifth day of June, eighteen hundred and sixty-eight, the date of the act constituting eight hours a day's work for all such workmen, laborers, and mechanics, and the nineteenth day of May, eighteen hundred and sixty-nine, the day of the proclamation of the President concerning such pay, to settle and pay for the same without reduction on account of reduction of hours of labor by said act when it shall be made to appear that such was the sole cause of the reduction of wages, and a sufficient sum for said purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated."

The question whether, under this act and the act of June 25, 1868, the terms "laborers, workmen, and mechanics" were to be construed in a general or technical sense, arose and was submitted to the Department of Justice by Hon. W. W. Belknap, Secretary of War.

On October 24, 1872, Clements U. Hill, Acting Attorney-General, furnished an opinion in reply to the Secretary of War, in which opinion occurs the following:

"I am strongly inclined to the opinion, considering the history of Congressional legislation upon this subject, and particularly in view of the recent decision of the Supreme Court in the 'twenty per cent cases' (13 Wall., 568), that this statute is to have a broad and liberal construction, and that the above case is decisive against limiting its provisions to those who would fall, within strict language, within the

terms 'laborers, workmen, and mechanics.' On the contrary, I think it was the intention of Congress to include within the provisions of this act and the previous act of 1868 all persons who are employed and paid by the day."

The urgent deficiency bill approved March 30, 1888, contains the following:

"And the Public Printer is hereby directed to rigidly enforce the provisions of the eight-hour law in the department under his charge."

By act approved May 24, 1888, it was provided—

"that hereafter eight hours shall constitute a day's work for letter carriers in cities or postal districts thereof, for which they shall receive the same pay as is now paid for a day's work of a greater number of hours. If any letter carrier is employed a greater number of hours than eight he shall be paid extra for the same, in proportion to the salary now fixed by law."

This series of acts, committing the United States Government to the "eight-hour day," failed to accomplish the purpose for which the legislation was sought.

The Department of Justice decided—

"that the provisions of the act of June 25, 1868, were not applicable to mechanics, workmen, and laborers who are in the employ of a contractor with the United States. That act was not intended to extend to any others than the immediate employees of the Government."

In the case of the *United States v. Martin* (4 Otto, 400) the Supreme Court held that the act of 1868 "is in the nature of a direction by the Government to its agents;" that it creates no contract between the Government and its employees; that "it neither prevents the Government from making agreements with them by which their labor may be more or less than eight hours a day, nor does it prescribe the amount of compensation for that or any other number of hours," thus practically holding that the law was a nullity unless the agent of the Government saw fit to obey the "direction." Under this decision the laborer acquired no legal rights, and therefore no additional means, by reason of the law for securing an eight-hour day or recovering for overtime.

The law was interpreted in a manner to leave it almost devoid of vitality except that which was infused into it by the two proclamations of President Grant.

In the light of this decision, apparently positive legislation in favor of the eight-hour day in the Public Printing Office was only a *direction* to the Public Printer.

A result was general dissatisfaction, not only among the laborers and their representatives who had sought the legislation, but also among the executive officers of the Government. The representatives of labor were dissatisfied from the fact that it was getting little practically and had nothing certain under the law. General Casey, then Chief of Engineers, Commander Folger, with the relative rank of commodore and holding the position of Chief of the Bureau of Ordnance, and other prominent Government officials charged with the direction of the labor employed by the Government, while generally favoring the eight-hour system, declared that the law should be more specific. Apparently in obedience to this generally expressed sentiment, when the Fifty-second Congress convened the Committee on Labor took up the subject. The committee, finding that it needed specific information on various matters not to be found in published documents, sought and obtained power from the House to enter upon a general investigation, with power to summon witnesses, etc.

The committee, in pursuance of the powers so granted, met March 8, 1892, and summoned before them Brig. Gen. Thomas L. Casey, Chief of

Engineers, in which capacity he was in direction of all works for river and harbor improvements in the country, all works of construction of fortifications, the erection of the new Library building, and in charge of the White House; Col. O. H. Ernst, Superintendent of Public Buildings and Grounds; W. M. Folger, commander in the Navy, and holding the position of Chief of the Bureau of Ordnance; the Hon. Frank W. Palmer, Public Printer, and Mr. Julian B. Dapray, chief of the law and construction division of the Supervising Architect's Office, Treasury Department.

The testimony showed conclusively that at that late date, twenty-four years after the act of 1868 was signed, the administration of the law by the several officials directing Government employees was not uniform.

In the course of his testimony General Casey said:

"I want to say to you that I am strongly in favor of what is called the eight-hour law. I am a friend of the wage earner. I believe he is getting more proceeds of his labor under this eight-hour law than he has ever been getting, and I believe it is well that that should continue. I think it is an advantage to the country and to the laborer, and I think it should be extended all over the country."

But General Casey asserted that the law had not been understood as limiting the hours of employment. His testimony showed that his department deemed the law complied with if the employee was paid for a day's work for each eight hours he labored.

In Commander Folger's examination occurs the following:

"Q. If the policy of the Government in the enactment of this law of 1868 was to actually limit the hours of service in a calendar day, then that law is not being observed.—A. No, sir; it is not being carried out. We do not imagine that that was the object of the law."

Further on Commander Folger, in the course of his examination, gave the following opinion under oath:

"If you could by fiat say that every man in the land should work but eight hours, it would be a very good thing to do. The quality of the work produced would probably compensate for the difference in hours."

Again,

"If, however, an effort is made to secure a fair performance from the men, and if the employer is fortunate enough to get the men interested in their work, I believe the output of product per unit of time will be vastly better in quantity and in quality, in high-grade work, than if the longer period were obligatory."

The result of the hearings had and the deliberations of the committee was that on August 2 the committee reported, as a substitute for sundry bills then before them, the following, which became a law August 1, 1892:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, first: That the service and employment of all laborers and mechanics who are now, or may hereafter be, employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor, upon any of the public works of the United States or of the said District, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government, or of the District of Columbia, or any such contractor or subcontractor, whose duty it shall be to employ, direct, or control the services of such laborers and mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day; except in cases of extraordinary emergency. That any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor, whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon any of the public works of the United States or of the District of Columbia, who shall intentionally violate any provision of this Act, shall be deemed guilty of a misdemeanor, and for each and every such offense, upon conviction, be punished

by a fine not to exceed one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

"SEC. 3. The provisions of this act shall not be so construed as to in any manner apply to or affect contractors or subcontractors, or to limit the hours of daily service of laborers or mechanics engaged upon the public works of the United States or of the District of Columbia for which contracts have been entered into prior to the passage of this act."

There was no misapprehension on the part of Congress as to what was intended by the act. The committee, in its report in explanation of the bill, used the following language:

"And again, second, it makes it unlawful to allow or permit a laborer or mechanic to work more than eight hours in any one calendar day, thus prohibiting evasion in the manner the act of 1868 was evaded.

"The measure herewith submitted, it is thought, will secure a practical enforcement of the purpose intended to be secured by the act of 1868. It limits the service and employment of all laborers and mechanics employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor of the United States or of the District of Columbia upon any of the public works of the United States or the District of Columbia to eight hours in any one calendar day; makes it unlawful for any officer of the United States or of the District of Columbia, or any contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics to require or permit such laborer or mechanic to work more than eight hours in any one calendar day, except in cases of extraordinary emergency; makes the willful violation of its provisions a misdemeanor, and imposes suitable penalties for such violation."

The act providing for the public printing and binding and the distribution of documents, approved June 12, 1895, contains the following provision:

"SEC. 47. The Public Printer shall cause work to be done in the Government Printing Office at night as well as through the day, when the exigencies of the public service require it, but the provisions of the existing eight-hour law shall apply."

Your committee again submit that Congress, having passed the acts herein stated or referred to upon the reports herein partly quoted, has fully indorsed the principle and policy of the eight-hour work day for laborers of all classes employed by or in behalf the United States or the District of Columbia, including the employees of contractors and subcontractors.

While your committee are of opinion that the eight-hour day is better observed by Government officials now than formerly, it is difficult to discover where the law of 1892 has widened the field in which it is observed except on public buildings. The committee have been unable to learn of any instance where an attempt has been made to enforce the law as against any contractor or subcontractor who has elected to proceed in violation of it.

The act of 1892, it will be observed, is in its chief features a penal statute—"a criminal law." That contractors and subcontractors on Government work continue to direct their men in violation of the plain terms of this act is not denied. That there has been an attempt to enforce it by the arrest or the effort to indict anybody for its violation is not pretended.

This is strange if not startling. It is not conceivable that a like failure could have passed unnoticed, if it could have occurred, with reference to the enforcement of any customs, internal-revenue, or other penal statute.

It has taken nearly thirty years for the executive officers of the United States Government to get into the habit of observing the law of 1868. There is as yet no apparent disposition whatever to enforce the law of 1892, as understood and intended by Congress. More than five years have elapsed and a construction or definition of the words

"public works" has not been obtained from the law department of the Government.

It appears to your committee that, while writers on political economy differ widely in their theories as to the law of wages (and they assault each other with great energy), the arguments deduced from all of them alike support the theory of a shorter or eight-hour work day. The dogma of McCulloch is that—

"The well-being and comfort of the laboring classes are * * * especially dependent upon the relations which their increase bears to the increase of capital, that is, to feed and employ them. If they increase faster than capital their wages will be reduced, and if they increase slower, they will be augmented. In fact, there are no means whatever by which the command of the laboring classes over the necessities and convenience of life can be enlarged other than by accelerating the increase of capital as compared with population, and every scheme for improving the condition of the laborer which is not bottomed on this principle, or which has not the increase of a ratio of capital to production for its object, must be completely nugatory and ineffectual."

A definition of capital apparently satisfactory to all schools of political economists is "the means of production (other than labor)." The doctrine quoted is thus stated by John Stewart Mill:

"If wages are higher at one time or place than at another, if the substance and comfort of the class of hired laborers are more ample, it is for no other reason than because capital bears a greater proportion to population. The condition of the laboring class can be bettered in no other way than by altering the proportion to their advantage; and every scheme for their benefit which does not proceed on this as its foundation is for all permanent purposes a delusion."

Ricardo states it thus:

"When, however, by the encouragement which high wages give to the increase of population the number of laborers is increased, wages again fall to their natural price, and indeed from a reaction sometimes fall below it. * * * It is only after the privations have reduced their number, or the demand for labor has increased, that the market price of labor will rise to its natural price, and that the laborer will have the moderate comforts which the natural rate of wages will enforce. Mill devoted a chapter to emphasizing this idea, and discussed it with such 'persistency, plausibility, and apparent conclusiveness' that he earned for it the designation 'the iron law of wages.'"

While this doctrine is assaulted as "a Malthusian theory that logically means that the only way of improving the condition of the laborer is to reduce population" and as an "economic heresy," it permits of the same deduction in favor of an eight-hour day as do the teachings of modern economists who assault it. In other words, the doctrines of all recognized economists lead to the shorter day.

If, according to modern writers, capital represents the means of production, or if "there are two sets of forces which can be employed in production, human force and natural force, and the latter represents the capital of the employer," it follows, under the doctrines of all the writers, that whatever tends to increase the capital employed in production increases the demand for laborers. And even if it were true that the shortening of the work day resulted in no increased consumption and no increased output per hour, it would require greater natural forces, more means of production (i. e., capital), to produce the supply for a given demand. Hence the shorter day would necessitate the use of a greater amount of the means of production (capital) and would furnish additional employment to labor—i. e., employment to more laborers. And if it be true, as contended by modern writers, that the shorter day results in increased wants, better mode of living, and hence greater consumption among the laborers, hence an increased market, and hence greater production, there is called into productive activity the same amount of additional capital, employing the same number of additional laborers, by whatever theory measured.

It is contended by the advocates of the shorter day that the additional leisure given to labor in every instance of the shortening of the work day, as it has been shortened step by step from sixteen hours to fourteen, twelve, eleven, ten, nine, and in many instances eight, has resulted in a decrease of intemperance among laborers, the acquirement of better taste, and new and better desires, resulting in better homes, greater domestic felicity, and a higher degree of intelligence, with an increase of laudable pride as to the clothing of themselves and those dependent upon them. In a word, has increased their interests in home and better social relations, raising their moral status, and has made them much better consumers of the products of labor and hence resulted in increased production.

The proposition that without variation the elimination of intemperance, poverty, pauperism, ignorance, crime, and their accompanying evils move parallel with and proportionate to the increase of the social opportunities of the laboring class stands without impeachment of its historical accuracy. No recognized authority to-day combats the proposition that the condition of the laborer has improved with every reduction in the hours of daily service that has up to this time been made. Nobody is disputing that he has become a better consumer with each reduction. No reasonable person would for a moment entertain the proposition that the work day should again be lengthened to fourteen or twelve hours. When the hours of work were so long that workers had no social opportunities they resorted to stimulants for solace and the saloon for society, where they encountered an "iron law" for spending which could not be disregarded without loss of caste in the only society which they had opportunity to enter.

A gentleman of responsibility and exceptional opportunity for observation has borne testimony that the shortening of the work day has banished "blue Monday."

A significant fact in connection with the shortening of the work day at various times during the present century is the entire silence of the older school of economists with regard to the effect of the shorter work day on society, business, industrial conditions, or the laborers themselves. It is nowhere claimed, in so far as your committee is aware, that any reduction in the hours of labor has had a detrimental effect on business, on manufactures, on labor as a unit, or individual laborers. The advocates of the short-hour theory, on the other hand, trace the moral, social, and financial improvement of the laborer to this cause and allege that business was at no time injured, but improved, if affected, and that production was stimulated and consumption increased.

Economists who advocate the eight-hour day contend with great plausibility that the shorter day results in an increase of wages without an increase of price, as greater consumption enlarges production, and the larger the scale of production the cheaper the given article is produced; that the laborer, when he has the leisure resulting from the shorter hours, has new aspirations, ambitions, and greater personal self-respect, and, as before stated, wants a better house, better furniture, better clothes, better food, and becomes a great deal better consumer; that the scale of wages is controlled by the wants of the laborer in any given state of society rather than by the "iron law of wages;" that modern men cease to work under normal conditions if the proceeds of their labor do not satisfy their wants; that therefore the social status of the laborer controls the law of wages, rather than the law of wages the status of the laborer.

The following correspondence occurred between your committee and

the Hon. Carroll D. Wright, Chief of the Bureau of Labor and Statistics, the Secretary of the Treasury, and the Secretary of War. It will be observed that the Commissioner of Labor favors the passage of the bill and states his reason, and that the reports from the Departments express an opinion that the bill ought not become a law. It is noticeable that the point raised by the Treasury Department, indicating that the number of inspectors which they have could not cover the entire ground, and one by the Chief of Ordnance that they sometimes want to work men ten hours to get ready for three eight-hour shifts, are the only two, outside of the general objection that this bill confers judicial functions upon Government officials who are not trained for that purpose and should not exercise them. It is rather remarkable that each of the chiefs should place himself in a judicial attitude for the purpose of criticising this bill, and after making some very nice distinctions as to where Congress ought to put certain authority, and where it ought not to put it, for reasons purely judicial, sums up his objection to the bill on the sole ground that he or those under him ought not determine any judicial question.

Your committee respectfully submits that the correspondence embodies no reason why this bill should not become a law. The objections go to the personal convenience of the officials. The objection of the Chief of Ordnance is readily met by the "emergency provision" of the bill.

This bill seeks to provide for the enforcement of the eight-hour laws, by the simple system of a provision in the contracts, rather than to drive the laborer to the courts. By this method all questions of personal and natural rights are avoided. The contractor finds his rights expressed in the instrument which he executes. We submit that this introduces no new feature into Government contracts. Indeed, in every instance, before payment is made on any contract, it is the business of the officials to ascertain if it has been complied with, and if the money is due, and if not due because of noncompliance, to withhold it. Nobody denies the right of the Government to make and enforce such a contract.

DEPARTMENT OF LABOR,
Washington, D. C., February 26, 1898.

DEAR SIR: I am in receipt of your letter of the 24th instant, inclosing H. R. 7389 and asking an expression of my views on the bill.

In reply I would say that the bill is similar to existing law (chapter 352, acts of 1891-92, first session Fifty-second Congress). It goes a little further than the law, however, in extending the application of the eight-hour principle to the public works, etc., of Territories and in providing additional penalties.

The policy of this class of legislation has therefore been settled by Congress, and I need not discuss this phase of the question. All such laws are enacted for the purpose of protecting the laboring man from the injurious consequences of prolonged physical effort, giving him more time for his personal affairs, and more time and energy to devote to the cultivation of his moral and mental powers. It has always been expected that they would aid him in the acquisition of knowledge, thus tending to make him a better and more contented citizen. This policy must be admitted by all to be a good one. The only difficulty is in so shaping legislation as not to interfere with necessary economic conditions. The Federal Government has long been committed to this policy; therefore, the principle of the proposed bill may be considered as settled and approved.

The only question concerning the bill that would seem to need discussion relates to whether it does—as it seems to be intended to do—strengthen existing law and make it more capable of active enforcement. After a careful examination I am of the opinion that, generally speaking, the pending bill, while describing in terms somewhat different from the provisions of existing law the class of persons and the character of the works to which it is applicable, is really broader in its application, and will cover all cases (if not more) that are covered by the law as it now stands.

One criticism which seems to be valid relates to section 3 of the bill. This section makes the penalties provided for violations apply to "any officer of the United

States, or any Territory, or the District of Columbia, or any person acting for or on behalf of the same," while the law as it now stands makes the penalties applicable to "any officer or agent," etc., and to "any contractor or subcontractor whose duty it shall be to employ, direct, or control," etc.

It will be seen that the present law makes the penalties applicable to contractors and subcontractors, while the bill does not provide for this in terms. It may be that the words "or any person acting for or on behalf of," etc., in the bill would be construed to cover the case of contractors and subcontractors, but in view of the fact that section 2 of the bill provides for other penalties on contractors and subcontractors, it may be that in construing the law a court might think section 3 did not apply to contractors and subcontractors, as it makes no direct reference to them, while section 2 makes such reference. I do not believe that such was the intention of the framers of the bill, and would therefore suggest the changing of section 3 so as to make it applicable in terms to contractors and subcontractors.

To answer your further question, I would say that the general ground upon which such legislation as that proposed by the bill is supported is that it is an exercise of the police power of a State and promotes the health, comfort, safety, and welfare not only of those for whose benefit it is principally intended, but of society in general.

The specific results of the existing law have not, I believe, been thoroughly satisfactory to those who secured its enactment. The experience of the Treasury and War Departments, whose officers have more to do with contracting under existing law than any other, would be of value to you in determining the necessity for passing the pending bill. Such matters have not come within the experience of this Department. Practical results are of far greater value in considering such a measure than the theory underlying it. I would therefore suggest that you secure the views of the officers of those departments who have had practical experience under the existing law. I presume you have already done this, however.

I am, respectfully,

CARROL D. WRIGHT, *Commissioner*.

Hon. J. J. GARDNER, M. C.,
Chairman Committee on Labor,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 12, 1898.

SIR: This Department has the honor to acknowledge the receipt of your communication of the 1st instant, transmitting a copy of a bill (H. R. 7389) "limiting the hours of daily service of laborers, workmen, and mechanics employed upon the public works of or work done for the United States, or any Territory, or the District of Columbia," calling attention to the clause providing for a stipulation in each contract as to the number of working hours in each day for the workmen, laborers, and mechanics who shall be employed in pursuance of the contract, and inviting an expression of opinion whether there is any practical reason why such a stipulation could not be inserted in the contracts made by this Department for the construction of public works and the penalties enforced as provided in the act. You also inquire whether it is not now the practice of this Department to introduce a stipulation into contracts whereby the contractor forfeits a specific sum per diem for failure to comply with the contract.

In reply, I have the honor to advise you that this Department knows of no reason why the stipulation to which you refer could not be incorporated in all the contracts made by this Department for the construction of public works, if so required by law; but the Department invites attention to certain features of the bill, which are presented for your consideration, and which appear to make it difficult of enforcement.

First. Because it gives the inspector on the public building or other public work power to determine ex parte whether there has been a violation of the provisions of the law, and to what extent, with an indefinite power on the part of the Department to rebate or remit any penalty imposed upon a finding to be made up and certified that such penalty was imposed by reason of an error of fact. But any such finding necessarily involves the taking of testimony, a proceeding for which the machinery of the courts is peculiarly adapted and that of the Executive Departments is not. Furthermore, there is presented the peculiar aspect of an executive department exercising quasi judicial functions in determining whether there has been a violation of law, and then enforcing a penalty therefor by deducting the amount thereof from the balance due on a contract. The imposition of said penalty would be impossible where there is not an unpaid balance due equal to the amount of the penalties.

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Second. Because a proper and efficient supervision of the hours of service of the employees of contractors and subcontractors for the purpose of noting any violation of the law would necessitate the employment of a force of inspectors sufficient to oversee the work performed under every contract and subcontract, extending out indefinitely.

If the provisions of the bill were limited to work actually performed upon any public building or buildings, or within the limits of the site or sites thereof, the matter of their enforcement would not be particularly difficult, as this Department has, in all such cases, a superintendent of construction or other officer or agent upon such work. But the scope of the bill is apparently much more comprehensive and far-reaching and is intended to include work done for the United States, or any Territory, or the District of Columbia, at points which, with the varying conditions, may be distant from the site of such public building or public work.

Thus, in the case of the stonework for a public building, the work incident to setting the material in place is under the supervision of the Department's authorized agent, who could report any violation of the law; but the quarrying and dressing of the stone might be done in another State, and would require the presence at the quarry of an inspector to see that the men employed on the work did not labor more than eight hours in any calendar day. And so of all the various materials, fixtures, and appliances entering into the construction of such public building. This, however, is the least difficulty, involving only the employment of a sufficient number of inspectors, which number can not be estimated in advance.

Greater difficulties would arise and much embarrassment and contention ensue when a contractor or subcontractor is getting out work or material at the same time for both public and private works, on the latter of which there is no restriction as to hours of service.

Take, for instance, the case of quarrying stone under such conditions. The workmen might be engaged generally in getting out stone, but until the stone had been detached from the quarry face it might be problematical as to which one of several pieces of work the stone would prove most suitable, its size and condition determining that question. Or, where a contractor or subcontractor is making bricks, his kiln might hold many more than those covered by his contract. Must he make the bricks separately for the public work? If not, how shall the inspector determine whether the particular bricks furnished were produced by eight hours' labor per day or more? And so of the ironwork, woodwork, glass, tiles, and all the other material of which a building is composed, produced under similar circumstances. Illustrations might be multiplied indefinitely to point out the impracticability of enforcing the penalty.

Replying to your other inquiry, I have the honor to advise you that the stipulation ordinarily incorporated in the contracts made by this Department for public works, providing a daily penalty or forfeiture, or for liquidated damages, covers only the matter of delay in the completion of such contracts, and does not extend to other breaches of the contract.

In the opinion of this Department, therefore, it is not advisable that the bill referred to should be enacted into law in its present form.

Respectfully, yours,

L. J. GAGE,
Secretary.

The CHAIRMAN COMMITTEE ON LABOR,
House of Representatives.

OFFICE CHIEF OF ORDNANCE, UNITED STATES ARMY,
Washington, March 24, 1898.

SIR: I have the honor to return herewith bill introduced by Mr. Gardner, limiting the hours of daily service of laborers, etc., employed upon the public works of or work done for the United States, etc., being H. R. 7389, Fifty-fifth Congress, second session.

The first section of this bill provides that laborers or mechanics, etc., shall not be required "to labor more than eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property." Extraordinary emergencies, however, may arise which are not caused by either fire, flood, or danger to life or property, as, for instance, preparation for anticipated war. The emergency is as great in this case sometimes as in the cases provided for in the section referred to.

In order to utilize to the best advantage the plants at the arsenals it is absolutely necessary at times to increase the hours of labor to ten hours, in order that preparations may be made for putting on three extra shifts of men to work eight hours each during the whole twenty-four hours

The second section provides that the contracts "shall contain a stipulation that no laborer, workman, or mechanic in the employ of the contractor or any subcontractor doing or contracting to do any part of the work contemplated by the contract shall be required or permitted to work more than eight hours in any one calendar day." The words "contracting to do any part of the work contemplated by the contract" might be considered to mean that if the contractor were doing any work for the United States he could not be permitted to allow his employees to work more than eight hours on other contracts.

The same section provides that a penalty shall be exacted, and "the amount of the penalties stipulated in any such contract shall be withheld by the officer or person whose duty it shall be to pay the moneys due under such contract." This stipulation requires an executive officer of the Government to perform judicial functions, which it is believed is contrary to law.

For all these reasons it is recommended that the bill referred to should not pass.

Very respectfully,

D. W. FLAGLER,
Brigadier-General, Chief of Ordnance.

The SECRETARY OF WAR.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, March 17, 1898.

SIR: I have the honor to return herewith letter from Hon. J. J. Gardner, of the Committee on Labor, House of Representatives, inclosing H. R. 7389—a bill limiting the hours of daily service of laborers, etc., employed upon the public works of or work done for the United States, or any Territory, or the District of Columbia—which has been referred to the Quartermaster-General for report.

This bill differs from the act of August 1, 1892, "relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia," in that it requires that every contract to which the United States is a party shall contain a stipulation that no laborer, workman, or mechanic in the employ of the contractor, or any subcontractor doing any part of the work, shall be required or permitted to work more than eight hours in any one calendar day, except in extraordinary emergency caused by fire, flood, or danger to life or property. It also provides that such contracts shall stipulate a penalty for each violation of the act of \$10 for each laborer, workman, or mechanic, for each and every day in which he shall labor more than eight hours, and further requires the United States officer or agent to withhold the amount of penalties whether they are imposed for violations by the contractor or the subcontractor, their agents or employees.

It is the opinion of this office that there are practical reasons why such a penalty clause should not be inserted in contracts for work done under the supervision of the Quartermaster's Department.

First. It is believed that the present law is sufficient to protect the laborers and workmen employed by contractors engaged on public work of this Department from being required to work more than eight hours per day, and that officers of the Quartermaster's Department do not knowingly countenance any violation of that act; and no further legislation on the subject is considered necessary.

Second. The officers of the Quartermaster's Department having charge of construction work at a military post deal directly with and pay all earned money to the contractors and not to subcontractors or their agents, and it would be impracticable for them to know when subcontractors, their agents or employees, outside of the limits of the fort or reservation, violated the law, and impossible to collect from them, their agents and employees, any penalty imposed for such violation. Cases may arise where subcontractors for material or services, or their agents, had violated the law without the knowledge of the contractor and the fact not reported to the officer until after payment had been made by the contractor for such materials, etc. To then impose a penalty for each offense and withhold the same from payments to the contractor would work a hardship to the contractor and probably involve the Government in a suit to recover the amount withheld.

Third. To empower and require military or other executive officers of the Government in charge of public works to act as judges, as such to determine when the law had been violated and then to execute their own decrees by withholding the fines assessed, would lead to endless complications, suits against such officers, and general detriment to the public service, with no corresponding benefits which are not already fully secured by law.

Of late years it has not been customary for this Department to insert in contracts for construction work a clause imposing a specific penalty for noncompliance with the contract. The only penalty clause now enforce in such contracts provides that

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in case of failure of a contractor to comply with the stipulations of his contract the United States shall have the power to complete the work at the expense of the contractor, in such manner as it may deem for the best interests of the public service, either by day labor and open-market purchase of the material, or by contract, or both, charging any excess of cost to the contractor or his bondsmen.

This mode of procedure has thus far worked to the satisfaction of the Department.

It is noted that the proposed law does not state what disposition shall be made of the penalties after their collection by the officer or agent whose duty it is to pay the moneys due under the contract.

Respectfully,

The SECRETARY OF WAR.

M. I. LUDINGTON,
Quartermaster-General United States Army.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, March 21, 1898.

SIR: I have the honor to acknowledge the reference to this office of a letter dated the 1st instant from Hon. J. J. Gardner, of the Committee on Labor, House of Representatives, inclosing, with request for an expression of the views of the Department thereon, H. R. 7389, "A bill limiting the hours of daily service of laborers, workmen, and mechanics employed upon the public works of or work done for the United States or any Territory or the District of Columbia."

The provision of the bill upon which Mr. Gardner desires the opinion of the Department is contained in section 2, which requires that each Government contract involving the employment of workmen shall contain a stipulation that no employee shall be required or permitted to work more than eight hours in any one calendar day and that for each violation of this stipulation the contractor shall be fined the sum of \$10, to be assessed by the officers of the Government and retained from any moneys due the contractor.

The effect of this provision will be to clothe officers of the United States, whose duties are purely executive, with judicial functions; to confer upon them authority to decide what constitutes a violation of a criminal statute and to inflict a penalty therefor; to subject contractors to conviction of an unlawful act without due investigation and trial, and to deprivation of property without due process of law. In my judgment such a proposition is decidedly objectionable.

The existing eight-hour law, approved August 1, 1892, leaves the adjudication of these questions to the courts, where the provisions of the law can be enforced and the rights of all parties properly determined. This law is sufficient to protect the rights of workingmen, has proven satisfactory so far as the works under this office are concerned, and I am unable to see any benefit to accrue from so radical a departure from the usual methods of enforcing criminal laws as is proposed in the bill under consideration. In common with all other persons accused of violating a law, a contractor on a Government work should have the right to have his offense taken cognizance of and determined by a judicial tribunal. Section 3 of this bill preserves this right to the officers and agents of the United States, and I see no reason for excluding contractors.

The letter and its inclosures are herewith returned.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, United States Army.

Hon. R. A. ALGER,
Secretary of War.

Your committee append a list of organizations which have approved the bill and urge its passage:

Amalgamated Council Building Trades, Philadelphia.
Pattern Makers' Association, Philadelphia.
Bolt and Nut Makers' Union, Muncie, Ind.
Local Union No. 50, A. F. G. W. U., Elwood, Ind.
Local Union No. 47, U. B. of C. and J., St. Louis, Mo.
Royal Gorge Lodge, No. 59, B. of L. F., Pueblo, Colo.
Local Union No. 130, cigar makers, Saginaw, Mich.
Local Lodge No. 314, International Association of Machinists, Waterloo, Iowa.
Local Lodge No. 128, B. of R. T., Milwaukee, Wis.
Trades and Labor Assembly, Muscatine, Iowa.
Local Union No. 236, cigar makers, Reading, Pa.
Friendship Lodge, No. 70, International Association of Machinists, Fort Wayne, Ind.

Local Union No. 14, Journeymen Barbers' International Union of America, Fort Wayne, Ind.
 Thames Union, No. 137, U. B. of C. and J., Norwich, Conn.
 Tri-City Lodge, No. 388, International Association of Machinists, Davenport, Iowa.
 American Federation of Labor, Washington, D. C.
 National Building Trades Council of America, St. Louis.
 Board of aldermen, Lowell, Mass.
 Carpenters' District Council, U. B. of C. and J., St. Louis.
 Local Union No. 118, Journeymen Bakers and Confectioners' International Union, Washington, D. C.
 Women Weavers, New Bedford, Mass.
 Tamarack Lodge, No. 39, International Association of Machinists, Garrett, Ind.
 Iron Molders' Journal, Cincinnati, Ohio.
 Local Union No. 86, cigar makers, Mansfield, Ohio.
 Amalgamated Association of Iron and Steel Workers of the United States, Pittsburgh, Pa.
 International Broom Makers' Union, St. Clair, Mich.
 Iron Molders' Union of North America, Cincinnati, Ohio.
 Boiler Makers, Kansas City, Kans.
 Cigar Makers' Union, No. 122, Warren, Pa.
 Tri-City Labor Congress, Rock Island, Ill.
 Local Union No. 139, cigar makers, Long Hill, Conn.
 Local Union No. 44, cigar makers, St. Louis, Mo.
 Granite Cutters' National Union, Westerly, R. I.
 Coopers' International Union, Cudahy, Wis.
 Local Union No. 63, Amalgamated Woodworkers, Oshkosh, Wis.
 Reading Lodge, No. 195, International Association Machinists, Reading, Pa.
 Local Union No. 271, cigar makers, Rochester, Minn.
 Toolsharpeners' Branch, No. 1, Granite Cutters' National Union, Quincy, Mass.
 Local Union No. 85, Metal Polishers, Buffers, Platers, and Brass Workers' Union, Reading, Pa.
 Wall Lodge, No. 439, B. of R. T., Pitcairn, Pa.
 Wisconsin State Federation of Labor, Milwaukee; central bodies of Milwaukee, and local unions of Racine, Wis.
 Federation Trades and the Building Trades of Milwaukee, and local unions of Milwaukee, Wis.
 Cigar Makers' Union, No. 85, and local unions of Eau Claire, Wis.
 Lathers and Shinglers' Union, No. 6000, and local unions of Oshkosh, Wis.
 Central Labor Union and local unions, of Ashland, Wis.
 Cigar Makers' Union, No. 168, and local unions, of Oshkosh, Wis.
 Coopers' Union, No. 10, Omaha, Nebr.
 Local Union No. 614, Miners' National Union of America, Wilkesbarre, Pa.
 Cigar Packers' Union, No. 281, St. Louis, Mo.
 Local Union No. 2, United Mine Workers, Hiteman, Iowa.
 Local Union No. 152, United Mine Workers, Ottumwa, Iowa.
 Farrell Division, No. 94, Brotherhood of Locomotive Engineers, Marquette, Mich.
 Branch No. 19, Boiler Makers and Iron Ship Builders of America, Philadelphia.
 Central Labor Union, Saginaw, Mich.
 Macon Typographical Union No. 93, Macon, Ga.
 Topeka Journeyman Barbers' Union, No. 25, Topeka, Kans.
 Local Union No. 308, United Mine Workers of America, Roscoe, Pa.
 Coke King Lodge, No. 347, Brotherhood of Locomotive Firemen, Scottdale, Pa.
 St. Louis Bridge and Tunnel Division, No. 327, Brotherhood of Locomotive Engineers, St. Louis, Mo.
 Pattern Makers' Association of St. Louis and vicinity.
 Trades and Labor Assembly, Newcastle, Pa.
 Iowa State Federation of Labor, Des Moines, Iowa.
 Trades and Labor Congress, Dubuque, Iowa.
 Macon Lodge, No. 144, Carpenters and Joiners of America, Macon, Ga.
 Local Union No. 235, cigar makers, Peru, Ind.
 Local Union No. 127, American Flint Glass Workers' Union, Dunkirk, Ind.
 Local Union No. 205, Cigar makers, Battlecreek, Mich.
 The Cripple Creek Trades Assembly, Cripplecreek, Colo.
 Port Huron Trades and Labor Council, Port Huron, Mich.
 Clerks' Union No. 24, Pueblo, Colo.
 Victor Trades Assembly, Victor, Colo.

JURISDICTION OF UNITED STATES COURTS.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. CONNOLLY, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 4104.]

The Committee on the Judiciary have had under consideration the bill (H. R. 4104) regulating the jurisdiction of United States courts, and for other purposes, and submit the following report thereon:

Section 5 of the act of March 3, 1875, provides as follows:

SEC. 5. That if, in any suit commenced in a circuit court or removed from a State court to a circuit court of the United States, it shall appear to the satisfaction of said circuit court, at any time after such suit has been brought or removed thereto, that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said circuit court, or that the parties to said suit have been improperly or collusively made or joined, either as plaintiffs or defendants, for the purpose of creating a case cognizable or removable under this act, the said circuit court shall proceed no further therein, but shall dismiss the suit or remand it to the court from which it was removed, as justice may require, and shall make such order as to costs as shall be just. * * *

Prior to this enactment the general rule in United States courts was that if a party did not plead to the jurisdiction, but went to trial on the merits, he was precluded from raising the question after judgment.

Since the adoption of this act, however, the Supreme Court holds that it is the duty of the appellate court, in every instance, to question not only its own jurisdiction, but also that of the trial court, and as result thereof we have such travesties of justice as appears in the case of *Walker v. Collins* (167 U. S., 57).

In this case Walker was United States marshal for the district of Kansas; he and his deputies levied a writ of attachment on a stock of goods, supposed to be the property of one Cannon, who was the defendant in the attachment.

Collins & Co., who claimed to be the owners of the attached goods, sued Walker and his deputies for damages in a State court, but did not set out in their declaration that Walker and his deputies acted as United States officers in levying upon said goods.

Walker and his deputies filed a petition for removal to the Federal court, setting up as a cause for removal that in taking the goods they

were acting as United States officers and that the case was, in fact, one arising under the laws of the United States and was therefore removable to the Federal court.

When the transcript was filed in the United States circuit court the plaintiffs, Collins & Co., moved that the cause be remanded for want of jurisdiction.

This motion was resisted by the marshal and his deputies, and the United States circuit court overruled the motion to remand, holding that the record showed it was a case arising under the laws of the United States, and therefore jurisdiction existed in the Federal court.

The case then went to trial on the merits, and Collins & Co. obtained verdict and judgment.

The marshal and his deputies took the case on error to the circuit court of appeals for the eighth circuit, and it was there heard on the merits, no question of jurisdiction being raised.

The judgment was reversed on error in the charge of the court and was remanded to the circuit court for a new trial, which was had, and Collins & Co. again obtained judgment.

Again the marshal and his deputies took the case on error to the circuit court of appeals, and there again it was heard and affirmed on the merits, no question of jurisdiction having yet been raised.

Thereupon the marshal and his deputies sued out a writ of error from the Supreme Court and in that court assigned as error the wrongful removal of the cause from the State court; and the Supreme Court held that the removal so asked for by the marshal and his deputies was wrongfully sustained by the circuit court, because the averment of facts, showing that the marshal and his deputies acted as officers of the United States in seizing the goods, was not in the declaration filed by Collins & Co. on beginning their attachment suit, but only appeared in the petition for removal.

It will be noticed that under the actual facts appearing in the case it was actually a case within the jurisdiction of the Federal court, because in truth the suit was against the marshal and his deputies for acts done in levying a writ issued by a Federal court, but the Supreme Court, because of this act of March 3, 1875, held it to be competent in the marshal and deputies, after they had, by their own action, taken the case into the Federal court, and had twice taken it to the court of appeals on its merits, and were finally beaten, to then assert for the first time that they had successfully induced the circuit court to wrongfully exercise jurisdiction in the case, and force Collins & Co. to come into the Federal court to establish their right to the attached property.

To permit under such circumstances the marshal and deputies who had invoked the Federal jurisdiction to afterwards assert that the removal of the case, which they themselves had brought about, was wrongful, seems to be justifiable under existing statutes, but certainly such statutes need amendment.

That such a thing can happen is an outrage on those who are injured by it, and is a just reproach to the administration of justice. A party who has invoked the jurisdiction of a Federal court ought to be estopped from challenging that jurisdiction, and the adverse party, when so brought into such court, ought to be required promptly and seasonably to challenge the jurisdiction of the court or else be estopped from raising that question thereafter.

It is an unseemly spectacle to permit a party to lay by until the conclusion of a long and expensive litigation and then for the first time to raise the question of the jurisdiction of the court.

It savors of bad faith and is an imposition on the court and an outrage on the party thus delayed.

But the hands of the court should not be tied so that it would be compelled to entertain and retain jurisdiction of a cause which may be wrongfully before it, either by reason of the collusion or the inattention of the parties litigant.

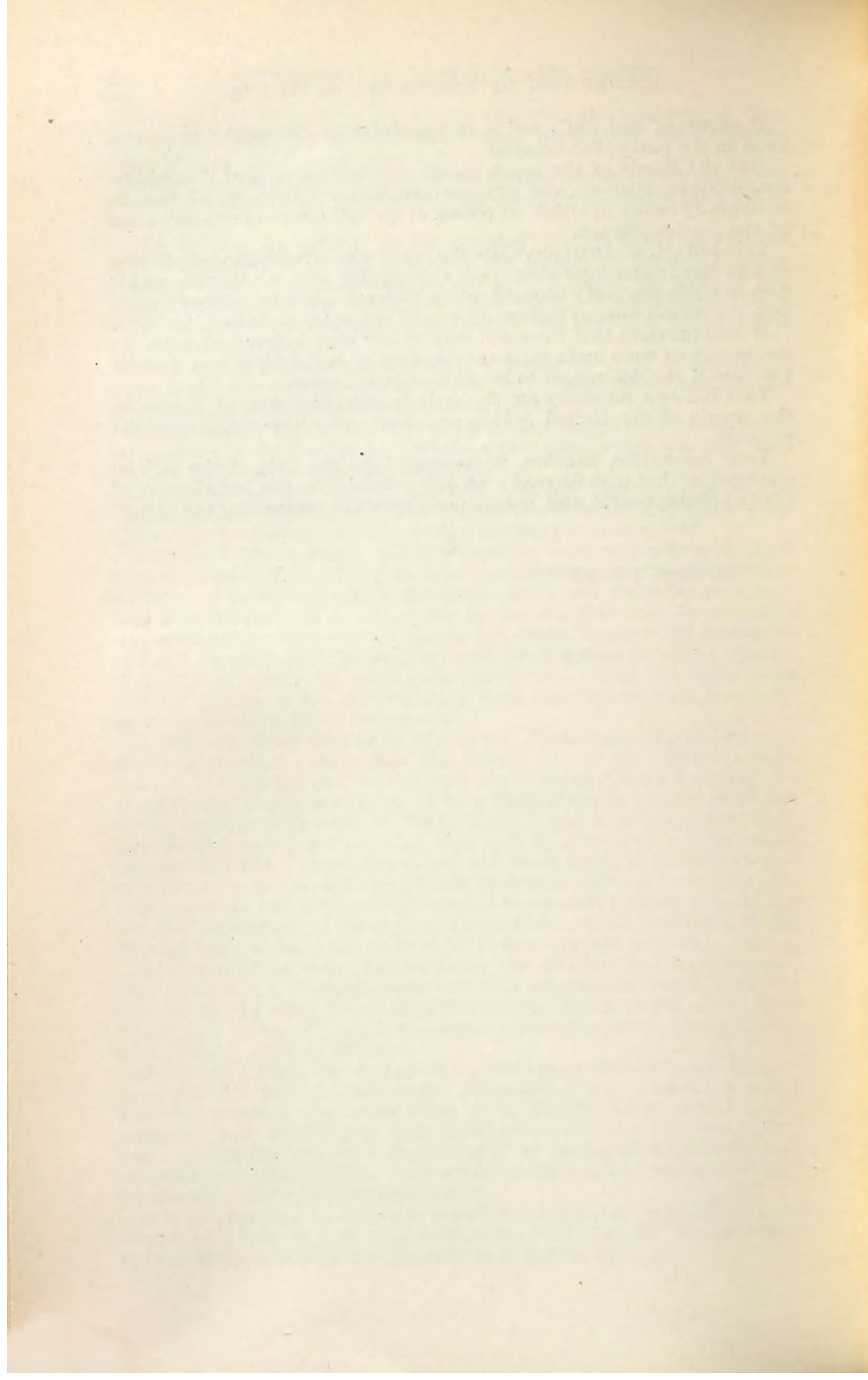
This bill (H. R. 4104) prohibits the party who invokes the jurisdiction of a Federal court from afterwards questioning that jurisdiction, and it also compels the party brought into a Federal court to promptly question the jurisdiction or forever after hold his peace as to that question.

It also provides that the court may at any time before judgment on the merits *ex mero motu* raise the question of jurisdiction and dismiss the case if it shall appear to be without jurisdiction.

This bill is a necessity for the orderly administration of justice in the courts of the United States, and your committee recommend its passage.

Your committee, however, recommend that the title of the bill be changed so that it shall read: "A bill relating to the jurisdiction of United States courts, and regulating procedure concerning the same."

○



JURISDICTION OF CIRCUIT COURTS IN CERTAIN CASES.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. CONNOLLY, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 4099.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 4099) to confer jurisdiction upon the circuit courts in certain cases, have had the same under consideration and beg leave to report as follows:

The purpose of this bill is to provide means whereby the realty in which the United States may be a tenant in common with others may be divided, so that the United States as well as the other tenants in common may receive their respective interests in severalty.

It may seem strange that such provision of law was not made long since, but it never has, and, as the law stands, when the United States becomes an owner of an undivided interest in realty it has no means of ever separating that interest from the entirety, and its coowners find themselves in the same situation, because no court has jurisdiction to admeasure and set apart their interests to the several tenants in common.

This bill gives the circuit courts of the United States jurisdiction for partition of the realty in such cases.

It often occurs, however, that in partition proceedings the court finds that the property is not susceptible of division, or that to divide it would materially injure the interests of the respective owners, and therefore instead of ordering its division orders the property sold and the proceeds divided pro rata between the respective owners. In such case each of the owners has the right to bid on the property, when offered for sale, in order to make the property sell for its full value and thereby protect the interest of all.

But if the bill be not amended no one will be authorized to bid on behalf of the United States, and so protect its interest in the property in cases where it may be found not susceptible of division.

The authority to bid, however, presumes the right and power to pay the amount bid, and no officer of the United States can have the right and power to pay in such cases unless specially authorized by law so to do. It is therefore necessary that this shall be provided for, and for

2 JURISDICTION OF CIRCUIT COURTS IN CERTAIN CASES.

that purpose your committee recommend that the bill be amended as follows:

Add after the word "persons," in line 21, page 2, the following:

Whenever in such suit the court shall order a sale of the property or any part thereof the Attorney-General of the United States may, in his discretion, bid for the same in behalf of the United States. If the United States shall be the purchaser the amount of the purchase money shall be paid from the Treasury of the United States upon a warrant drawn by the Secretary of the Treasury on the requisition of the Attorney-General.

And being so amended, your committee recommend the passage of the bill.



TO PREVENT THE ABATEMENT OF CERTAIN ACTIONS.

APRIL 4, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. CONNOLLY, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 6901.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6901) to prevent the abatement of certain actions, have had the same under consideration and make report thereon, as follows:

It frequently occurs, in consequence of differences about the proper construction of laws governing the actions of heads of departments or bureaus of the Government, that actions for mandamus are sued out against such officers to compel them to perform acts which they think they are not required to perform, and while such actions are pending if often occurs that the official either dies or vacates, thus abating the action and leaving the question of official duty involved in such action in the same uncertainty it was before the commencement of the action, thus very often greatly interfering with the orderly and prompt execution of the laws by such executive officers.

A recent illustration of the injurious effect of this condition of things is found in the decision of the Supreme Court in the case of *United States ex rel v. Benjamin Butterworth, Commissioner of Patents*. In March, 1895, while John S. Seymour was Commissioner of Patents, he decided a question of interference between Bernardin and Northall in favor of Bernardin. From this decision Northall appealed to the court of appeals of the District of Columbia, and that court reversed the decision of the commissioner.

Bernardin then instituted proceedings in the supreme court of the District of Columbia to compel the commissioner by mandamus to issue to him a patent in accordance with his previous decision, claiming as a reason for this proceeding that the act of Congress approved February 9, 1893, which confers jurisdiction on the court of appeals of the District to hear appeals from the action of the Commissioner of Patents, is unconstitutional and void.

The supreme court of the District dismissed the petition for mandamus, and on appeal the court of appeals of the District sustained the judgment of the supreme court.

After this Seymour resigned as Commissioner of Patents and Benjamin Butterworth was appointed, and thereupon Bernardin filed a new

petition for mandamus in the supreme court of the District, which was also dismissed by that court, and that decision was, on appeal, approved by the court of appeals of the District in May, 1897.

That same month a writ of error was allowed from the Supreme Court of the United States to bring the case before that court for review, and while the case was pending in the Supreme Court of the United States Butterworth died, on January 16, 1898, and C. H. Duell was appointed as his successor.

A petition was then filed in the Supreme Court of the United States to substitute said Duell as defendant, which was decided adversely by the Supreme Court on March 21, 1898, and the suit abated. Should Bernardin now commence a mandamus proceeding against Duell to settle this question, he can have no assurance that Duell will remain in office long enough to obtain a decision in the case. In deciding this case the Supreme Court of the United States say:

In view of the inconvenience of which the present case is a striking instance, occasioned by this state of the law, it would seem desirable that Congress should provide for the difficulty by enacting that, in the case of suits against the heads of departments abating by death or resignation, it should be lawful for the successor in office to be brought into the case by petition or some other appropriate method.

It is believed also that occasions may arise when some of these executive officers may find it necessary in the discharge of their official duties to commence proceedings in mandamus or injunction against others in which a final decision may not be reached while such official remains in office, and it is equally important in such cases that the decision be obtained even though the official commencing the proceeding has been succeeded by another.

The proper disposition of costs already accrued in such cases presents some difficulty. A mandamus proceeding against an officer is based upon the claim that he is personally refusing to perform some duty which the law requires of him in his official character, and if decided against him he is properly liable, personally, for all cost of the proceeding, but if he vacates the office before a decision, it might seem harsh to compel his successor to become a party to the suit and to the costs already accrued without having been guilty of any personal neglect of the official duty involved in the proceeding; but to provide against this seeming harshness your committee propose to amend the bill so as to give the succeeding official an opportunity to perform the official act involved in the proceeding and thereby prevent the survival of the action against himself, and if he fails to do so, he can not then complain of being mulct in costs accruing against his predecessor.

Your committee therefore recommend that the bill be amended as follows, and that the bill so amended be passed, viz:

Insert after the word "action," in line 3, the words "for mandamus or injunction."

Strike out of line 3 the words "an officer," and insert in lieu thereof the words "the head of any department or bureau."

Insert in line 9, after the word "thereafter," the words "showing a necessity for the continuance of the action to obtain a settlement of the questions involved."

Add after the word "office," in line 10, the following: "and the court may make such order as shall be equitable for the payment of cost accrued prior to such substitution."

Strike out section 2.

COMMISSION TO EXAMINE THE POSTAL SERVICE.

APRIL 4, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LOUD, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT.

[To accompany H. Res. 190.]

The Committee on the Post-Office and Post-Roads, having had under consideration the resolution (H. Res. 190) to create a commission to examine into the postal service, beg leave to report that in view of the conflicting statements made and lack of information regarding the subjects embraced in said resolution, particularly that portion relating to railroad mail pay, railway post-office car service, and second-class mail matter, it would seem necessary that Congress should be informed fully upon these matters, that it may be prepared to take up and consider such subjects, together with some others in the postal service, with a view to remedying abuses in that service if it shall be found that abuses exist.

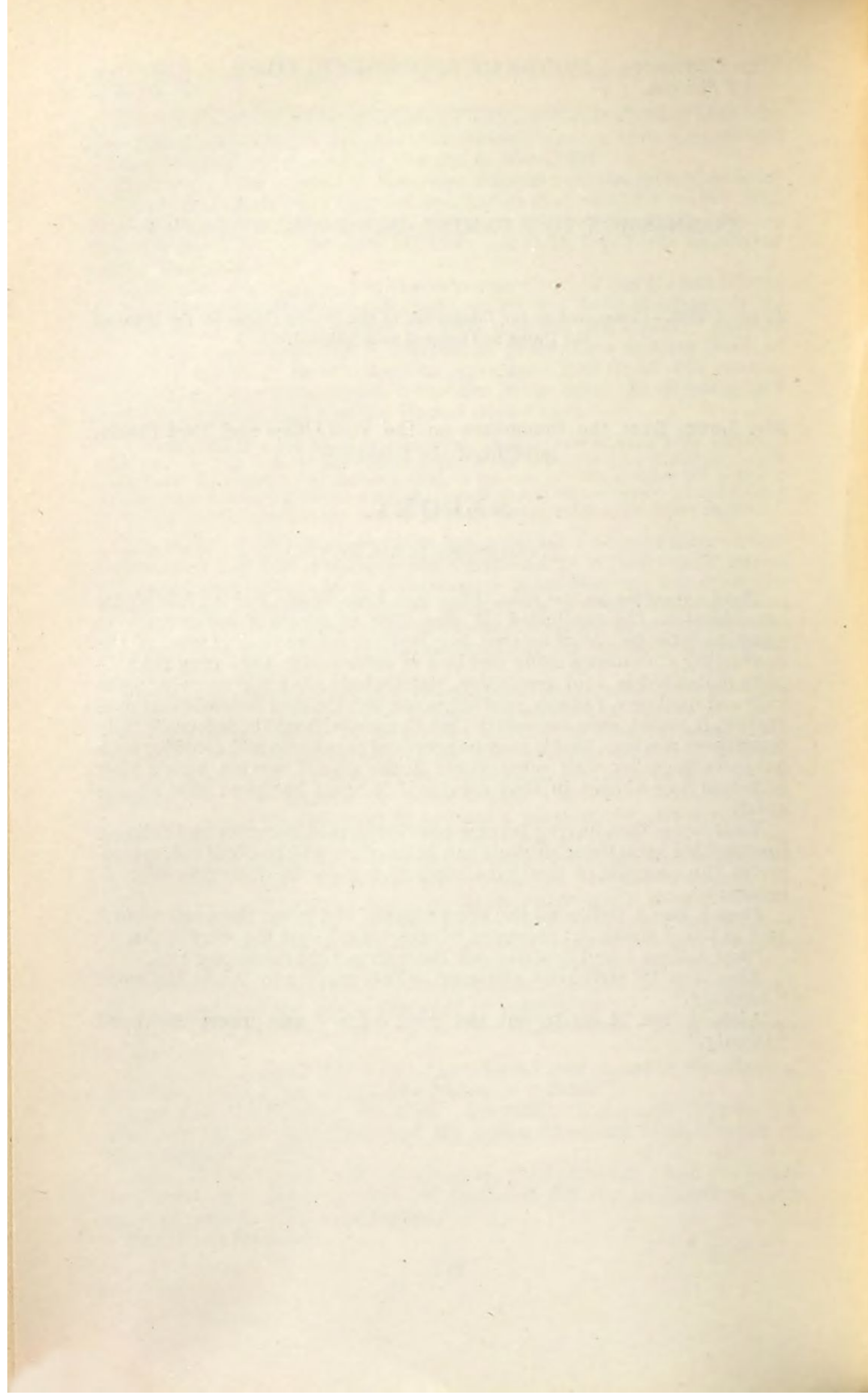
Your committee, having become convinced that accurate and reliable information upon these subjects can in no other way be obtained, recommend the passage of the joint resolution with the following amendments:

Page 1, line 3, strike out the word "three" and insert the word "four," and in line 5 strike out the word "three" and insert the word "four."

Page 2, lines 1 and 2, strike out the words "not exceeding two."

Also, line 16 strike out the word "February" and insert the word "January."

Also, in line 24 strike out the word "fifty" and insert the word "twenty."



MARY J. BROWN.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4973.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4973) placing the name of Mary J. Brown on the pension roll, have considered the same and the evidence and respectfully report:

This bill proposes to place on the pension rolls the name of Mary J. Brown, of Swan Creek, Ill., as the widow of Andrew T. Brown, who is shown by the records of the War Department to have been a member of Company D, One hundred and thirty-third, afterwards called the Ninth Virginia Militia, called out by Governor Pierpont, of West Virginia, and that the captain, two lieutenants, and fifty-four men, including Andrew T. Brown, were captured while drilling near Centerville, Upshur County, W. Va., some time in September, 1863, and were recognized as prisoners of war.

"Andrew T. Brown, Yankee militia," is reported as having been received at Hospital No. 13, Richmond, Va., with abscesses, on November 16, 1863; sent to Castle Thunder November 25, 1863. Again entered same hospital February 1, 1864, with the same disease, and returned to Castle Thunder February 4, 1864.

Prisoner of war records also show him confined at Richmond February 5, 1864, and sent to Americus, Ga., March 12, 1864.

The prisoner of war records also show that one A. T. Brown, of the Eighth Virginia Infantry, subsequently the Seventh West Virginia Cavalry, was captured at Centerville, Va., September 12, 1863. He was paroled at Charleston, S. C., December 10, 1864. He was furloughed on December 20, 1864, and deserted from furlough.

The name Andrew T. Brown has not been found on the rolls in the War Department of any volunteer organization from the State of West Virginia in the service of the United States during the late war.

While no record has been found connecting A. T. Brown, who was confined in Richmond, Va., as a member of the One hundred and thirty-third or Ninth Virginia Militia, with the Andrew T. Brown reported on

the prisoner of war records as of the Eighth Virginia Infantry, subsequently Seventh West Virginia Cavalry, it seems probable that these men were identical from the similarity of the report as to capture.

This record shows unquestionably that Andrew T. Brown, while drilling as a member of the militia regiment, having been called into service by the governor of West Virginia, was captured by the rebels and was recognized and treated as a prisoner of war. That he was confined, treated in hospital, and paroled as prisoner of war. He was given a furlough after parole, but the fact that he did not return from that furlough does not constitute a desertion from the military service of the United States, inasmuch as he had never been mustered into the United States service and was not a member of any military organization of the United States; consequently no discharge was necessary.

April 25, 1892, Mary J. Brown filed a claim in the Pension Office, under the act of June 27, 1890, as the widow of Andrew T. Brown. The report from the War Department showing the facts above set forth being received, the claim was rejected June 17, 1897, on the ground that—

the records of the War Department fail to show that Andrew T. Brown was enrolled or mustered into the military service of the United States.

As the evidence is not clear that the claimant was ever married to the soldier, and that, if his widow, she has not remarried, certain amendments are necessary, and the bill is therefore reported back, with the recommendation that it pass when amended as follows:

In line 5, before the word "limitations," insert the words "provisions and."

In line 6, before the word "widow," insert the word "alleged."

After the word "infantry," in line 7, add the following: "and of Company D, One hundred and thirty-third (afterwards Ninth) Virginia Militia, when her marriage to the soldier and present widowhood is established."

Amend the title so as to read: "A bill for the relief of Mary J. Brown."

MONMOUTH, ILL., November 9, 1897.

DEAR COLONEL: In the matter of special act for Mrs. Mary J. Brown I inclose papers sent me by her, she having received same from you.

I heartily commend your purpose to introduce a bill for the relief of Mrs. Brown. Her husband was one of "nature's noblemen," and the widow of any soldier who served more than a year and a half as a prisoner ought to have a pension. If you need anything in the way of petition or evidence not yet furnished I will do my best to help furnish the same. She filed application for widow's pension early in June, 1892, and I would like to suggest that the date for commencement be fixed for that time, or September 9, 1891, the date of Taylor's death, and she had at the time she made application five children under 16 years of age. Hoping you may be successful in this, I remain

Your friend,

JOHN M. TURNBULL.

Hon. B. F. MARSH, Washington, D. C.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, September 16, 1897.

SIR: Referring to your letter of the 15th instant, received to-day, in which you inclose one from the Pension Bureau relative to the pension claim of the widow of Andrew T. Brown, alleged as of Unassigned West Virginia Infantry, and request to be informed as to what the Confederate archives and the prisoner of war records show

with reference to the confinement of Mr. Brown at Richmond, Va., and Americus, Ga., I have the honor to advise you as follows:

The prisoner of war records show that A. T. Brown, "Yankee," Upshur County, Va., or A. T. Brown, Company C, One hundred and thirty-third Virginia Militia, was captured at Centerville, Va., September 12, 1863. He was admitted to hospital No. 21, Richmond, Va., November 16, 1863, and sent to Castle Thunder, Richmond, Va., November 25, 1863, and was confined at Richmond, Va., February 5, 1864, and sent to Americus, Ga., March 12, 1864. No later information relative to this man is found on said records.

The Confederate archives show that this man was a member of Company D, One hundred and thirty-third (also designated the Ninth) Virginia Militia, called out by the governor of West Virginia. The captain, two lieutenants, and fifty-four men were captured while drilling near the fort at Centerville, Upshur County, W. Va. Correspondence was had relative to the status of these men, and they were finally recognized as prisoners of war. These records show concerning Andrew T. Brown, "Yankee Militia," as follows: Entered hospital No. 13, at Richmond, Va., disease, abscesses, on November 16, 1863, and sent to Castle Thunder November 25, 1863; again entered the same hospital February 1, 1864, with the same disease, and was returned to Castle Thunder on February 4, 1864.

The prisoner of war records also show that one Andrew T. Brown, of the Eighth Virginia Infantry, subsequently the Seventh West Virginia Cavalry, was captured at Centerville, Va., September 12, 1863. He was paroled at Charleston, S. C., December 10, 1864, and was furloughed on December 20, 1864, and deserted from furlough.

The name Andrew T. Brown has not been found on the rolls on file in this office of any volunteer organization from the State of West Virginia in the service of the United States during the late war.

While no record has been found connecting the A. T. Brown who was confined at Richmond, Va., as a member of the One hundred and thirty-third (or the Ninth) Virginia Militia, with the Andrew T. Brown reported on the prisoner of war records as of the Eighth Virginia Infantry, subsequently the Seventh West Virginia Cavalry, it seems probable from the similarity of the record as to capture that these men were identical.

It is probable that additional information relative to Brown's service as of the West Virginia Militia can be obtained upon application to the adjutant-general of the State of West Virginia.

The letter from the Pension Bureau is herewith returned.

Very respectfully,

F. C. AINSWORTH,
Colonel, U. S. A., Chief Record and Pension Office.

Hon. B. F. MARSH,
House of Representatives.



SYLVESTER F. HILDEBRAND.

APRIL 4, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 8607.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 8607) to correct the military record of Sylvester F. Hildebrand, do report that the same do pass with the following amendments, to wit:

Insert after the word "discharge," in line 7, the words "as of date June seventh, eighteen hundred and sixty-five."

Add at end of line 11 the words "and that he be paid all pay and allowance retained from him on his discharge by reason of the forfeiture specified in paragraph thirteen hundred and seventy-one, Revised Army Regulations of eighteen hundred and sixty-three."

This is a case of particular merit. Sylvester F. Hildebrand enlisted by volunteering into the service of the United States and was enrolled August 20, 1862, into Company E, One hundred and thirty-ninth Pennsylvania Volunteer Infantry, for three years or during the war. He was at the time of said enlistment 15 years and 4 months old, but was readily accepted by the recruiting officers and sworn into service.

He served faithfully until after the war was over and was in the grand review at Washington City, Tuesday, May 23, 1865. During his service he was in every battle from second Bull Run to Appomattox in which his regiment was engaged. He never missed a day's duty; never answered a sick call.

Soon after his enlistment, his mother, Mrs. Elizabeth Kelly, of Apollo, Pa., made application for the discharge of her son on the ground that he was a minor. Her efforts in this direction seem to have reached the Department October 27, 1864, and was returned to her because "lacking in certain essential particulars."

On January 17, 1865, she again applied, and the Department took up the matter of the record and character of Sylvester F. Hildebrand with the officers of Company E, One hundred and thirty-ninth Pennsylvania Volunteer Infantry; this occupied until May 20, 1865. All of this was

unknown to the soldier, who was at the front fighting with his command, and who supposed that his mother had ceased her efforts on being written to by him that he intended to serve out his term of enlistment. However, the case was submitted to the Secretary of War May 20, 1865, and on May 26, 1865, he directed that Hildebrand be discharged, under paragraph 1371 of Revised Army Regulations, which reads as follows:

Every enlisted man discharged as a minor, or for other cause involving fraud on his part in the enlistment, or discharged by the civil authority, shall forfeit all pay and allowances due at the time of the discharge, and shall not receive any final statements.

Under this severe regulation Sylvester F. Hildebrand, after almost three years' faithful service at the front, after the war was over, and after marching in the grand review at Washington, was discharged, all pay and allowance cut off, and left without sufficient money to pay his way back home to Apollo, Pa.

The military record, after stating that his services were faithful, and that he was discharged under the above paragraph of the Army Regulations, graciously adds:

It is deemed proper to remark that his officers gave Hildebrand an excellent character as a soldier.

It is time that this soldier, who in the enthusiasm of youth enlisted, and whose only crime was perhaps a misrepresentation of his age, at which both the recruiting and his commanding officers in service of the United States winked, should be dealt with justly by correcting his military record to correspond with the facts, and granting him the allowances so unjustly cut off from him.



MARY A. WISE.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 493.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 493) granting a pension to Mary A. Wise, have examined the same and all the evidence relating thereto and respectfully report:

The Senate bill proposes to pension, in effect, at \$20 per month Mary A. Wise, of Apalachicola, Fla., as widow of Peter Wise, late captain Company I, Eighteenth Pennsylvania Cavalry.

The Senate report (No. 199) states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 493) granting a pension to Mary A. Wise, have examined the same and report:

A similar bill passed the Senate during the Fifty-third Congress, also during the first session of the Fifty-fourth Congress, and was reported favorably by the House. The committee recommend the passage of the bill and adopt the said Senate report, which is as follows:

Peter Wise was captain of Company I, Eighteenth Pennsylvania Cavalry, and in June, 1861, received an injury by his horse falling on him, the pommel of the saddle entering the body below the stomach, producing a fearful lacerated wound. The medical evidence on file shows that the abdominal muscles were ruptured, and that in healing adhesions formed which greatly interfered with both walking and stooping, the parts continuing tender on pressure, and the wearing of an abdominal support being a constant necessity. This condition of things continued until the death of the soldier, his health gradually failing. The medical examiners of the Pension Office certified that "he is growing weaker every year from the effects of the injury."

The soldier died from a malignant carbuncle on the neck, and the widow's claim for pension was rejected on the ground that the death was not the result of the accident for which soldier was pensioned. Among the papers on file in the Pension Office is an affidavit from Joseph D. Rush, M. D., of Apalachicola, Fla., as follows:

"I knew Peter Wise five years prior to his death. He suffered from a wound of the abdomen, received in the late war, which produced rupture of most of the muscles that have their attachment to the pubes. Said condition incapacitated him for manual labor and gradually drew upon his general health until his blood became so impoverished that a large carbuncle formed on the back of the neck, producing death. My medical opinion is that the injury was the original cause of death."

Two other physicians gave similar testimony, the contention being that blood poisoning resulted from the wound, culminating in a carbuncle, a condition of things generally recognized and admitted by medical men as a matter of somewhat frequent occurrence.

The claimant under this bill is needy and in poor health. She belongs to a patriotic family, her grandfather having served in the wars of the Revolution and of 1812, and three brothers were soldiers in the war of the rebellion, one of whom died in Libby Prison, one died in a hospital, and the other has been an invalid ever since his discharge from the Army.

Believing that the soldier's death was undoubtedly due to his army service, your committee report the bill back favorably and recommend its passage.

Your committee, after careful examination and consideration, concur in the Senate conclusions and report the bill back with the recommendation that it pass.

THE HISTORY OF THE
CITY OF BOSTON
FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME
BY
NATHANIEL BATES

THE HISTORY OF THE CITY OF BOSTON, FROM THE FIRST SETTLEMENT TO THE PRESENT TIME, BY NATHANIEL BATES. IN TWO VOLUMES. VOL. I.

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THE HISTORY OF THE CITY OF BOSTON, FROM THE FIRST SETTLEMENT TO THE PRESENT TIME, BY NATHANIEL BATES. IN TWO VOLUMES. VOL. I.

J. S. WAGGENER.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8906.]

The Committee on Invalid Pensions, to whom was referred House bill No. 8906, have examined the same and all the evidence and respectfully report:

This bill proposes to pension, at \$12 per month, J. S. Waggener, of Hillsboro, Oreg., the father of four Union soldiers, all of whom entered the service while under 21 years of age, and one of whom died in Andersonville prison.

This father is now old and very poor.

The bill is reported back with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out the words "of the Government."

In line 5, after "Waggener," insert the word "dependent."

In line 10 strike out the word "allow" and insert in lieu thereof the word "pay."

Amend the title so it will read: "A bill granting a pension to J. S. Waggener."

HOUSE OF REPRESENTATIVES,
Washington, March 7, 1898.

DEAR SIR: I inclose copy of House bill No. 8906, to pension Mr. Waggener, who furnished four sons to the war of the rebellion. I inclose to you the military record of the sons, showing that one died in prison, and all of the others rendered service of considerable length. I know Mr. Waggoner personally. He is a resident of my home town. He is a very old man and has no means at all. He is now dependent upon his sons for his living.

This is the bill about which I spoke to you personally, and I have fixed the pension at \$12 per month, being the amount suggested by yourself.

I sincerely hope this bill will meet with the approval of your committee.

Truly, yours,

THOS. H. TONGUE.

Hon. GEO. W. RAY,
Chairman Committee on Invalid Pensions.

STATE OF OREGON, *County of Multnomah, ss:*

I, J. S. Waggener, being first duly sworn, depose and say that I am now and for twenty-two years last past have been a resident and inhabitant of the State of Oregon, and that I am now in the seventy-seventh year of my age; that I am the father of Joseph B. Waggener, now deceased, who was born in 1841; of Rufus Waggener, born 1842; of Willis Waggener, born 1844, and of Houston Waggener, now deceased, born in 1847. That all of four said sons of mine served in the Union Army during the war of the rebellion as follows, to wit: My said sons Joseph B. Waggener and Rufus Waggener enlisted in the Union Army, Company B, Third Iowa Infantry, at Knoxville, Iowa, on the 22d day of May, 1861, and were mustered into service June 8, 1861. My said son Rufus Waggener served three years in the Army, and my said son Joseph B. Waggener served from the time of his enlistment, May 22, 1861, to the time of his death at Andersonville prison, Georgia, on November 22, 1864. My son Willis Waggener enlisted in Knoxville, Iowa, in the fall of 1862, being in the Ninth Iowa Cavalry, and was mustered out of service in the spring of 1865. My son Houston Waggener enlisted in the Eighteenth Iowa Infantry in the summer of 1861, at Knoxville, Iowa, and after serving about one year was discharged as an incompetent musician. He then reenlisted about June, 1863, in Company G, Fifteenth Iowa Infantry, and served until the close of the war, and died January 1, 1885. None of my above-mentioned sons were 21 years of age at the time of their enlistment.

I am unable to support myself by my own efforts, and have no property except 160 acres of timber land on the Chehalem Mountains in Washington County, Oreg., which is comparatively valueless, and which is encumbered by a mortgage of the full value of the land at the present time. Said property does not bring me in any income.

J. S. WAGGENER.

Subscribed and sworn to before me this 15th day of March, 1898.

[SEAL.]

C. E. KINDT,
Notary Public for Oregon.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, March 7, 1898.

SIR: In reply to your letter of the 4th instant, received to-day, in which you request to be furnished with the military records of certain late soldiers of Iowa volunteers in service during the late war, I beg to advise you as follows:

It is shown by the records that Joseph B. Waggener was enrolled May 31, 1861, at Keokuk, Iowa, and mustered into service as a private in Company B, Third Iowa Infantry, to date June 8, 1861, to serve three years. He reenlisted as a veteran volunteer January 4, 1864; was captured February 27, 1864, at Canton, Miss., and was admitted to the prison hospital at Andersonville, Ga., September 17, 1864, where he died of scorbatus on the 22d of the same month.

It is also shown by the records that Rufus Waggener was enrolled May 31, 1861, at Keokuk, Iowa, and mustered into service to date June 8, 1861, as a private in Company B, Third Iowa Infantry, to serve three years, and that he was mustered out of service June 17, 1864, at Davenport, Iowa, by reason of the expiration of his term of service.

It is also shown by the records that Houston Waggener was enrolled December 28, 1863, at Knoxville, Iowa, and mustered into service January 15, 1864, as a private in Company G, Fifteenth Iowa Infantry, to serve three years, and that he was mustered out of service with the company July 24, 1865.

It is further shown by the records that Willis Waggener was enrolled July 16, 1863, at Knoxville, Iowa, and mustered into service November 30, 1863, as a private in Company L, Ninth Iowa Cavalry. He was mustered out of service with the company February 3, 1866, at Little Rock, Ark.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

Hon. THOMAS H. TONGUE,
House of Representatives.

SAMUEL B. DAVIS.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7007.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7007) granting an increase of pension to Samuel B. Davis, have examined the same and the evidence and respectfully report:

This bill, as amended, proposes to increase from \$36 to \$50 per month the pension of Samuel B. Davis, of Newport, Ind.

This soldier, who had a long and faithful service as private and corporal in Company C, Eighteenth Indiana Volunteer Infantry, was granted a pension of \$36 per month by special act, which did not contain the provision that same was subject to the provisions and limitations of the pension laws, and hence the Bureau finds itself without power to increase this soldier's pension to \$50, an amount it concedes he is entitled to. The soldier's disability has largely increased and the evidence is abundant and satisfactory—yes, absolutely conclusive—that he now suffers a disability wholly of service origin by reason of gunshot wounds which totally disable him, except mentally and in the use of one arm and one leg, and that he is in a condition requiring the frequent and periodical aid and attendance of another.

The affidavits annexed fully describe the soldier's condition, and we will not repeat here. He is needy and the case in every aspect is a worthy one, and Congressional action is absolutely necessary.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

Strike out all after the word "him" in line 7 and insert in lieu thereof the following: "a pension at the rate of fifty dollars per month, in lieu of the pension he is now receiving."

STATE OF INDIANA, *County of Vermilion*, ss:

In the matter of increase of pension of Samuel B. Davis, late Company C, Eighteenth Regiment Indiana Volunteers, personally came before me, John T. Lowe, clerk of Vermilion circuit court, in and for aforesaid county and State, Samuel B. Davis, aged 55 years, a citizen of the town of Newport, county of Vermilion, State of

Indiana, and who, being duly sworn, declared in relation to aforesaid case as follows:

I am the claimant in this case. I was a corporal in Company C, Eighteenth Regiment Indiana Volunteers, during the war of 1861-1865. I am now receiving a pension of \$36 per month under the act approved February 28, 1877. On the 14th day of July, 1892, an act was approved granting an intermediate rate between \$30 and \$72 per month to pensioners who required frequent and periodical, though not constant, attendance of another person.

I believe my condition entitles me to the rate paid under the act of July 14, 1892, and have made two applications to the Commissioners of Pensions, one under Hon. William Lochren and the last one under Hon. H. Clay Evans, and was rejected each time on the ground that I was getting all I was entitled to under the law. I do not think so or I would not appeal to Congress for relief.

My crippled condition is such that I can not dress myself without assistance. My left ankle joint is stiff, greatly enlarged, and by reason of suppuration it has to be dressed daily. There is not a minute in the day that I do not suffer more or less with my ankle, and occasionally undergo surgical operations, and at times take to my bed on account of intense suffering that is almost unbearable. I can not wear a shoe either winter or summer on my lame foot. My leg is withered clear up to my body and is not one-half as large as my right leg. My right arm is ankylosed at the elbow joint, and the arm stands at a half angle. My hand and fingers are also ankylosed so that I can not close my hand more than half shut. On account of the crooked condition of my arm I can not wear an overcoat in cold weather, and have not been able to wear one since my discharge from the service. Owing to the condition of my right arm, I can not even raise a glass of water to my mouth with that arm, and have to feed myself with my left arm.

My present crippled condition is a result of measles contracted in the Army while on a forced march after General Price's army in Missouri, late in the fall of the year. I could not be properly cared for, and in consequence took a violent cold, which caused the disease to settle in my limbs.

Witness my hand this 25th day of December, 1897.

SAMUEL B. DAVIS.

Subscribed and sworn to before me, clerk of the Vermilion circuit court, this 25th day of December, 1897.

[SEAL.]

JOHN T. LOWE,
Clerk of Vermilion Circuit Court.

STATE OF INDIANA, *County of Vermilion, ss:*

In the matter of increase of pension of Samuel B. Davis, late Company C, Eighteenth Regiment Indiana Volunteers, personally came before me, John T. Lowe, clerk of the Vermilion circuit court in and for aforesaid county and State, M. L. Hall, age 51 years, a citizen of the town of Newport, county of Vermilion, State of Indiana, and who, being duly sworn, declared in relation to aforesaid case as follows:

I have been the family physician of Samuel B. Davis, the above-named claimant, for the past twenty years. His present physical condition is such that I believe him to be honestly entitled to \$50 per month. His left ankle joint is a great source of pain and trouble to him. I have frequently lanced it, when it would become swollen and inflamed, to relieve him of the intense misery he was suffering. It suppurates continually. The ankle joint is ankylosed at a right angle with the axis of the limb. There is great enlargement of the bony structure about the joint. The entire limb has withered and shrunk so it is not more than half its normal size and is useless. The ankle joint is very tender and painful, and no weight can be borne upon the foot.

It swells much during the day and reduces at night when he lies down. This foot and leg is only a sort of useless dead weight and of no practical use to claimant. The ankle suppurates and has to be dressed daily. He can not wear a shoe on that foot. His right arm is ankylosed at the elbow joint and bent at a right angle with the axis of the humerus. The entire limb is atrophied. The hand and fingers are ankylosed so he can not close his hand more than one-half. These disabilities are all permanent and a result of claimant's service in the Army. On account of the peculiar shape of his right arm he can not wear an overcoat. He can not use his right hand to feed himself by reason of said ailments, and therefore has to have the help of some one to assist him.

Witness my hand this 25th day of December, 1897.

M. L. HALL, M. D.

Subscribed and sworn to before me, clerk of the Vermilion circuit court, this 25th day of December, 1897.

[SEAL.]

JOHN T. LOWE,
Clerk Vermilion Circuit Court.

STATE OF INDIANA, *County of Vermilion, ss:*

In the matter of increase of pension of Samuel B. Davis, late Company C, Eighteenth Regiment Indiana Volunteers, personally came before me, John T. Lowe, clerk of the Vermilion circuit court in and for aforesaid county and State, William F. Thornton, aged 44 years, a citizen of the town of Newport, county of Vermilion, State of Indiana, and who, being duly sworn, declared in relation to aforesaid case as follows:

I am deputy postmaster at Newport, Ind., and reside on an adjoining lot to Samuel B. Davis, late of Company C, Eighteenth Regiment Indiana Volunteers. My acquaintance with him dates back more than twenty-three years. He is badly crippled in the right arm and left leg, and has always been compelled to get about on crutches ever since I knew him. His left ankle joint is very painful to him. It is greatly enlarged and he frequently has to undergo a surgical operation to get relief, by reason of an abscess forming near and at the joint. The joint suppurates and has to be dressed daily.

By reason of its tender, painful, and swollen condition he can not wear a shoe on the foot of his lame leg. I never saw him have an overcoat on the coldest day in the year, because he can not put one on, on account of his crooked arm, which is bent at a half angle. He can not bathe himself nor feed himself with his right hand. He has to walk on one leg and crutches and feed himself with his left hand.

He can not dress himself, but has to have someone else to assist him. I believe him to be deserving of a much much higher rate of pension than he is now paid.

Witness my hand this 25th day of December, 1897.

WILLIAM F. THORNTON.

Subscribed and sworn to before me, clerk of the Vermilion circuit court, this 25th day of December, 1897.

[SEAL.]

JOHN T. LOWE,
Clerk Vermilion Circuit Court.

STATE OF INDIANA, *County of Vermilion, ss:*

In matter of increase of pension of Samuel B. Davis, late Company C, Eighteenth Regiment Indiana Volunteers, personally came before me, John T. Lowe, clerk of Vermilion circuit court, in and for aforesaid county and State, Enoch L. Canady, aged 43 years, a citizen of the town of Newport, county of Vermilion, State of Indiana, and who, being duly sworn, declared in relation to aforesaid case as follows:

I have been acquainted with Samuel B. Davis, late of Company C, Eighteenth Regiment Indiana Volunteers, since 1866. Ever since I first knew him he has been compelled to use crutches in getting about. He is also badly crippled in his right arm, and by reason of the crooked condition of said arm he is unable to wear an overcoat or feed himself with that arm. His elbow joint is stiff, and also his hand and fingers, so that he can not close his hand more than half shut.

His left ankle joint is greatly enlarged, swollen, and inflamed and constantly suppurates. It has to be dressed daily. I have frequently bathed him and trimmed his toe nails, because he can not perform that duty himself or dress himself. I know he is a great sufferer from his lame ankle joint, which becomes so painful at times he has to have a surgical operation performed before he gets relief. At times the misery is so intense that he has to take to his bed until he gets better. All these facts I know of my own personal knowledge.

Witness my hand this 25th day of December, 1897.

ENOCH L. CANADY.

Subscribed and sworn to before me, clerk of Vermilion circuit court, this 25th day of December, 1897.

[SEAL.]

JOHN T. LOWE,
Clerk Vermilion Circuit Court.

AMENDING SECTION 4746, REVISED STATUTES.

APRIL 5, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. ALEXANDER, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 6160.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6160) to amend section 4746 of the Revised Statutes of the United States, submit the following report:

The Commissioner of Pensions has called the attention of this committee to the fact that a change in section 4746 of the Revised Statutes is necessary in order to prevent and to punish fraud against the pension system. "The Bureau is now in possession of facts," he says, "seemingly indisputable, supported by the records of the registrar of vital statistics of a certain city, where one man has been drawing the pensions of fifteen or more pensioners that have been dead from one to ten years and more. When such cases come up prosecution can not be sustained, * * * the officers before whom the acknowledgments were taken disregarding the rules of the Bureau as to proper identification, there being no penalty."

For the purpose of preventing and punishing fraud of this character the committee unanimously recommend that section 4746 of the Revised Statutes be amended as hereafter indicated, in order to bring within its provisions parties who make or assist in making false or fraudulent affidavits concerning pension claims, or who knowingly certify that the declarant, affiant, or witness named in such affidavit appeared before him and was sworn thereto or acknowledged the execution thereof when, in fact, such declarant, affiant, or witness did not so appear.

The words "or of the Secretary of the Interior," in lines 12 and 13, are included in the proposed amendment because certain matters are partly within the jurisdiction of the Bureau of Pensions and partly within that of the Interior Department alone. It is the duty, for illustration, of the Pension Bureau to prepare and consider all papers relating to disbarment proceedings in connection with an attorney of record and to recommend action to the Department of the Interior, the Pension Department having no power to disbar an attorney.

The words "or bounty lands," in line 21 of the bill, are included in the amendment, for the reason that claims for bounty land are adjudi-

cated in the Pension Bureau, and papers filed in bounty-land claims should be subject to the same restrictions as those filed in claims for pensions.

Section 4746 is as follows:

Every person who knowingly or willfully in any wise procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension or payment thereof, or pertaining to any other matter within the jurisdiction of the Commissioner of Pensions, or who knowingly or willfully presents or causes to be presented at any pension agency any power of attorney or other paper required as a voucher in drawing a pension, which paper bears a date subsequent to that on which it was actually signed or executed, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment for a term not exceeding three years, or by both.

The section as amended will read as follows, the words added being in italics:

That every person who knowingly or willfully *makes or aids, or assists in the making,* or in any wise procures the making or presentation of any false or fraudulent affidavit, *declaration, certificate, voucher, or paper, or writing purporting to be such,* concerning any claim for pension or payment thereof, or pertaining to any other matter within the jurisdiction of the Commissioner of Pensions *or of the Secretary of the Interior,* or who knowingly or willfully *makes or causes to be made, or aids or assists in the making,* or presents or causes to be presented at any pension agency any power of attorney or other paper required as a voucher in drawing a pension, which paper bears a date subsequent to that upon which it was actually **signed or acknowledged** *by the pensioner, and every person before whom any declaration, affidavit, voucher, or other paper or writing to be used in aid of the prosecution of any claim for pension or bounty land or payment thereof purports to have been executed who shall knowingly certify that the declarant, affiant, or witness named in such declaration, affidavit, voucher, or other paper or writing personally appeared before him and was sworn thereto or acknowledged the execution thereof when, in fact, such declarant, affiant, or witness did not personally appear before him or was not sworn thereto or did not acknowledge the execution thereof,* shall be punished by a fine not exceeding five hundred dollars or by imprisonment for a term of not more than five years.

THOMAS CONNOLLY.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3230.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 3230) to remove the charge of desertion from the military record of Thomas Connolly, after a careful consideration of the evidence in the case are of the opinion that the soldier was not a willful deserter, and was returning to his command with his pass in his pocket when he was accidentally drowned.

In view of these facts, your committee recommend that the bill do pass, with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The record from the War Department is as follows:

Case of Thomas Connelly, late private, Company G, Ninth Pennsylvania Volunteers.

A report in this case was furnished the Committee on Military Affairs, House of Representatives, on H. R. 8717, Fifty-first Congress, first session, June 16, 1890. Following is a copy:

"Thomas Conley, private, Company G, Ninth Pennsylvania Cavalry Volunteers, was enrolled at Mount Joy, Pa., on September 30, 1861, to serve three years, and is reported present to October 31, 1861; roll of company dated December 31, 1861, reports him 'deserted, left Camp Cameron November 14, 1861, with full uniform, sworn and mustered into service;' muster-out roll of company, dated July 18, 1865 (name dropped from intervening rolls), shows him 'deserted November 14, 1861, at Camp Cameron, Harrisburg, Pa.' He never returned to military control. The following is a synopsis of testimony obtained from the files of the Pension Office:

"C. M. Brown, under date of December 6, 1883, swears that about January 25, 1863, (?) being deputy coroner of East Donegal Township, Lancaster County, Pa., and having been called to hold an inquest on the body of a drowned man found in the Pennsylvania Canal, near Shocks Mills, in said township, he found that the said drowned man was a cavalryman; that he found in his pocket a pass for transportation to his regiment, which affiant believes was in Kentucky; that he was informed that the drowned man's name was Thomas Connelly, private, Company G, Ninth Pennsylvania Cavalry; that affiant buried him, and that on the next day the man's friends came and took him to his home, near Columbia, Lancaster County, Pa.

"(Records show that the said regiment was stationed in November and December, 1861, at Louisville, Ky., and Jeffersonville, Ind.)

"The said C. M. Brown and Henry Pentz, in a joint affidavit executed on July 4, 1885, give testimony in effect the same as is contained in the former affidavit of C. M. Brown, dated December 6, 1883, as to the finding of the body of Connelly, except as to date, which is now stated to be December 31, 1861; and they further swear that the pass found in his pocket, and which was for transportation to his regiment, then in Kentucky, was genuine and would have taken the deceased to his destination but for the fact of his having been drowned on his way, east of Harrisburg; that they do not know how long he was in the water before they found him, but that it must have been some time, as they found him buried in water and ice.

"The same affiants, under date of September 12, 1885, again swear to the same, in effect, as in their affidavit of July 4, 1885; further, that the deceased was clad in a cavalry soldier's uniform; that when his friends learned of the finding of the body they came and disinterred the remains, identified the body, and carried it to the home of the deceased, where it was again buried on January 1, 1862, in the soldier uniform; that decomposition had taken place, and the body was much bruised and injured from floating down the canal.

"Again, on April 2, 1886, and on September 21, 1886, the same affiants swear to the same effect as in their preceding statements of July 4 and September 12, 1885, and further that they found the body of the said Connelly buried in ice in the canal; that he might have been dead a month or more; that there was on his person when found a comb, a knife, and the pass already mentioned, but no money. Pentz further swears that he is certain that Connelly was the man who took breakfast with him at his house at the canal locks about a month before the body was found, and who said that he was on his way to his regiment and that he had a pass in his possession to carry him thither.

"C. M. Brown, in a letter dated April 3, 1886, writes that the pass referred to was given to Mr. Pentz, the lock tender of the canal, and by him to Pinckney Gresh, of the Marietta First National Bank, now dead. (No record of furlough or pass.)

"(In the last affidavit, dated September 21, 1886, C. M. Brown is reported to be 70 and Henry Pentz 66 years of age, and both residents of Maytown, Lancaster County, Pa.)

"On November 27, 1886, the attorney in the case was informed that the official records show that the soldier deserted at Camp Cameron, Harrisburg, Pa., on November 14, 1861, and never returned; that the case is not covered by the act of Congress approved July 5, 1884, and the testimony presented can not be accepted by the Department to establish that the charge was erroneously made; that unless testimony be submitted to establish that the said charge was entered against the soldier on the sole ground of his unaccountable disappearance, and that the circumstances under which he left camp are not irreconcilable with the assumption that he would have returned to his command had it not been for the accident by which he lost his life, the application for the removal of the charge of desertion must be denied.

"On August 14, 1889, the same attorney, Mrs. Belva A. Lockwood, was informed that the case of this soldier has been most carefully reconsidered, and no ground for a reversal of the former decision of the Department has been found; that such decision must therefore be adhered to.

"The status of the case has not been changed by the introduction of additional testimony."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation.

Respectfully submitted.

F. C. AINSWORTH,
Colonel, United States Army.

RECORD AND PENSION DIVISION, June 3, 1892.

The SECRETARY OF WAR

FORT OMAHA MILITARY RESERVATION.

APRIL 5, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GRIFFIN, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 5.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5) to provide for the transfer of Fort Omaha Military Reservation to the State of Nebraska, having had the same under consideration, respectfully report thereon as follows:

A similar measure passed both Houses in the Fifty-fourth Congress and was vetoed by the President, whose chief objection to the measure was that the clause authorizing the Secretary of War to take possession of the military reservation mentioned for the use of the Government at any time that in his judgment the interests of the United States should require such action, did not also provide that possession thereof might be so resumed for the purpose of selling the property as contemplated in the act of July 23, 1888. No action was taken by either House upon the Executive message vetoing the bill.

It appears from a report submitted by the War Department that there are 80½ acres embraced in the reservation. Of this 40 acres were purchased for \$8,000, and the remaining 42½ acres cost but \$1, having, presumably, been donated by the citizens of Omaha. The reservation is situated within the corporate limits of that city. Building operations began in 1868, and the cost of the post up to 1890 approximated \$300,000.

There are, as shown by the annual inspection report to the War Department of March 2, 1896, 70 frame and brick buildings of various descriptions at the post, consisting of officers' quarters, barracks, and other structures, but 7 of these buildings are of brick.

An act of Congress approved June 23, 1888, authorized the Secretary of War to sell the military reservation known as Fort Omaha, near the city of Omaha, in the State of Nebraska, and such of the buildings and improvements thereon as could not be economically removed to the new site provided for in the act. The Secretary of War was also authorized to purchase suitable grounds situate within a distance of 12 miles of the limits of the city of Omaha, and construct thereon the necessary buildings with appurtenances sufficient for a 10-company military post, to be known as Fort Crook, and a sufficient sum of money, not exceeding \$200,000, was therein appropriated to enable the Secretary of War to comply with the provisions of the act.

The new post has since been built and garrisoned and is now known as Fort Crook. The garrison was withdrawn from Fort Omaha in September, 1896, since which time two watchmen, at \$45 each per

month, have been employed for the protection of the property, and since March 23, 1898, continue to serve, under direction of Professor Gillespie, appointed by the Secretary of War custodian, without pay. In October, 1896, these authorities reported that it was not considered advisable to incur expense in protecting the frame buildings at Fort Omaha, as they were practically worthless; that the premises are still under the control of the War Department, no definite action having yet been taken regarding their platting and sale. The War Department reports that no necessity exists for the retention of this abandoned reservation for military purposes. At the present time there appears to be no prospect for securing purchasers for the land in question at prices which the Government could afford to accept. Its present valuation, including the improvements thereon, is variously estimated from \$40,000 to \$60,000 for the entire tract, and it seems doubtful if the same could be sold at present or in the future for the minimum amount.

The property under the existing arrangement entails upon the Government an annual expense of \$1,080 for pay of watchmen, and it is clear that the buildings, appurtenances, and improvements will soon begin to deteriorate in value, and that unless the Government continues to protect the same by maintaining a complete watch and guard over the property, the buildings will speedily become disfigured and in process of time greatly injured. Under these circumstances it is proposed to authorize the State of Nebraska to use the same as a place of rendezvous and school of instruction for the National Guard of said State until such time as the United States or the Secretary of War may again desire to use it for military purposes, or until it may be deemed advisable to sell or dispose of it.

If this bill becomes a law the State of Nebraska will enter into possession of and maintain the grounds and buildings without expense to the United States, reporting annually to the Secretary of War in detail the uses made of the reservation so long as the State is permitted to control it for the purposes stated.

The committee believes that the maintenance of a school for military instruction by the State of Nebraska at the city of Omaha would be of great benefit to the United States, by encouraging and providing for the military education and discipline of the young men of a large area of territory. In view of all these considerations, the committee feels justified in recommending that the property known as Fort Omaha be devoted to the uses mentioned.

Your committee is, however, of the opinion that the bill should be amended by striking out the words "transfer and turn over," where they occur in the 6th line of section 1 of the bill, and inserting in lieu thereof the words "lease at a nominal rent;" also by striking out section 2 of the bill and inserting a new section in lieu thereof, to be known as section 2, reading as follows:

SEC. 2. That the said reservation, while used for the purposes aforesaid, shall be maintained without expense to the United States, and the Secretary of War may, at any time that he shall deem it proper so to do, either for the interests of the United States or for the purpose of selling the same, take possession of said military reservation, together with all the buildings, appurtenances, and improvements thereon, and sell the same, or devote it to such Governmental uses as may be deemed proper or necessary.

The changes thus proposed in section 2 of the bill would remove the chief objection upon which the veto measure was predicated, and therefore the committee recommend that when so amended the bill do pass

OLIVIA BETTON.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 2695.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2695) granting a pension to Olivia Betton, have examined the same and all the evidence relating thereto and respectfully report:

This bill, as amended, proposes to increase from \$8 to \$17 per month the pension of Olivia Betton, of Fordham, N. Y., widow of Thomas F. Betton.

Soldier served as acting assistant or contract surgeon at Cuyler General Hospital, Germantown, Pa., from November 10, 1862, to May 14, 1864; at Lincoln General Hospital, Washington, D. C., from May 16, 1864, to February 22, 1865; as surgeon First United States Veteran Volunteer Infantry, from February 22, 1865, to March 1, 1866; and as acting assistant surgeon at post hospital, Harpers Ferry, W. Va., from March 2, 1866, to May 25, 1866. His service in each instance was honorably terminated.

There is no record of disability or treatment during his military service. He died May 21, 1875.

R. N. Downs, M. D., Germantown, Pa., testifies:

His fatal sickness beginning in January, 1874, and continuing until May, 1875. I have no means of knowing exactly when his last illness began, as I kept no memorandum of my visits to a brother physician, and hence can not say when I first prescribed for him. His disease was softening of the spinal cord and consequent paraplegia and paralysis of the sphincters of bowels and bladder; and he was under my constant observation until his death.

There is no connection shown between the death cause and service. The widow, who was married to soldier June 16, 1864, and while he was in the service, is about 62 years of age, and has no income or means of support aside from a pension of \$8 per month which she is drawing under the act of June 27, 1890.

Soldier's rank as acting assistant or contract surgeon was the same as first lieutenant, and as surgeon, that of major.

While it is not proved, and can not be, that Surgeon Betton died of disease contracted in the service, your committee are almost morally certain that such is the fact.

In any event the fact that this war widow, now advanced in years, is in necessitous circumstances, makes this a proper case for Congressional action.

This bill is reported back with the recommendation that it pass, when amended as follows:

In line 6, after the word "her," insert "a pension." In the same line strike out the word "thirty" and insert in lieu thereof "seventeen."

In line 7 strike out all after the word "month."



WILLIAM H. H. NEVITT.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 1529.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1529) granting an increase of pension to William H. H. Nevitt, have examined the same and all the evidence and most respectfully report:

This bill proposes to increase from \$12 to \$30 the pension of William H. H. Nevitt, of Zanesville, Ohio, late first lieutenant Company F, One hundred and fifty-ninth Ohio Volunteer Infantry, who served from May 2, 1864, to August 22, 1864, and was honorably discharged.

August 23, 1889, he filed a claim under the general law, alleging that in August, 1864, he contracted cough and cold and piles, caused by exposure, and that about ten or fifteen days after his discharge his cold resulted in intermittent and typhoid fever and settled on his lungs, and he has had disease of lungs ever since, and that his piles have been much worse since that spell of fever.

Report from the War Department fails to show any disability or treatment for any disability in the service, and the claim under the general law has never been disposed of.

July 10, 1890, he filed a claim under the act of June 27, 1890, alleging loss of both arms near the shoulder and loss of left eye. The evidence shows that the claimant lost both arms near the shoulder, and also lost left eye, by the premature discharge of a cannon which he was loading October 24, 1889, and he is pensioned for loss of both arms and sight of left eye and disease of right eye under said act at \$12 per month.

A similar bill was favorably reported by this committee in the Fifty-fourth Congress, and in that report appears the following:

The soldier is in absolute poverty except for the small sum above mentioned, and requires constant attention.

Your committee is assured that this is true.

The bill is reported back with the recommendation that it pass when amended by inserting after the word "pension," in line 7, the words "at the rate."

THE JOURNAL OF THE
AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
CHICAGO, ILL., U.S.A.

WILLIAM H. WYLLIE

OF THE
FACULTY OF MEDICINE
OF THE UNIVERSITY OF CHICAGO

AND
OF THE
FACULTY OF MEDICINE
OF THE UNIVERSITY OF ILLINOIS

LECTURE

(To be delivered at the University of Chicago)

THE
FACULTY OF MEDICINE
OF THE UNIVERSITY OF CHICAGO
HAS THE HONOR TO ANNOUNCE THAT

DR. WILLIAM H. WYLLIE, OF THE
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OF THE UNIVERSITY OF CHICAGO
AND OF THE FACULTY OF MEDICINE
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WILLIAM H. WRIGHT.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 732.]

The Committee on Invalid Pensions, to whom was referred Senate bill 732, have examined the same and the evidence and respectfully report:

This bill proposes to increase from \$14 to \$30 per month the pension of William H. H. Wright, now at Desdemona, Ark.

The Senate report (No. 230) states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 732) granting an increase of pension to William H. H. Wright, have examined the same, and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

"William H. H. Wright enlisted on the 8th day of August, 1862, and was discharged on the 6th day of March, 1863. He served in Company G, Thirty-fifth Regiment Iowa Infantry Volunteers. He was discharged on surgeon's certificate, having contracted chronic diarrhea while in the service and in the line of duty. On the 20th day of July, 1869, he was allowed a pension at the rate of \$4 per month for said disability, and as this trouble increased very rapidly he was increased to \$8, then to \$12, and then to \$14 per month, the last rate being allowed him on the 7th day of March, 1878. This is the rate he is now drawing.

"About the time that this last rate was allowed he began to be troubled considerably with piles, resulting from chronic diarrhea, which increased very rapidly. From this complex disability has resulted an inguinal hernia, caused by relaxed tissues and straining.

"The soldier at times is very constipated, and then he has these severe spells of diarrhea, which carries with it blood, mucus, and occasionally pus. He has three or four large hemorrhoids and has an ulcer about 1 inch from the anus or posterior surface of the rectum about the size of a dime. The rectum is badly inflamed and ulcerated. This man's condition has grown so badly that his bowels are now inflamed and very sensitive to the touch. He has lost all appetite; his tongue is red and contracted.

"By reason of his disabilities he has become so helpless that he is compelled to take to his bed for days at a time, and spends most of his time in bed. He is utterly unable to support himself by reason of his disabled condition. He has no one upon whom he can depend for a living. He is compelled to wear a truss at all times.

"This information is given after a careful examination of the papers now on file in the Pension Bureau, and is taken exclusively from the reports of the various

examining boards that have examined the soldier. In each report since 1889 the board has given the soldier a higher rating than he was drawing, and in some cases the boards have rated the soldier as high as second grade. Some have given him a third-grade rate. They all consider him disabled from earning a support by reason of his disabilities.

"The object of this bill is to pension him at the rate of \$30 per month because of these disabilities.

"Your committee are of the opinion that the claimant is disabled to the extent of second-grade rate, and as the present disabilities are the result of disabilities incurred while in the service and in the line of duty, we think he is entitled to \$30 per month, and recommend that the bill be favorably passed for that amount."

Your committee concur in the conclusions, and report the bill back with the recommendation that it pass when amended as follows:

In line 8 strike out the words "rate him at" and insert in lieu thereof the following "pay him a pension at the rate of."

Amend the title so it will read "An act granting an increase of pension to William H. H. Wright."

STATE OF SOUTH DAKOTA, *County of Minnehaha, ss:*

In the matter of W. H. H. Wright, applicant for pension, personally came before me, a notary public in and for the aforesaid county and State, Simon H. Dixon, aged 65 years, citizen of the town of Sioux Falls, 607 Duluth avenue, county of Minnehaha, State of South Dakota, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

I am acquainted with W. H. H. Wright; he was a member of Company G, Thirty-fifth Iowa Volunteer Infantry. He enlisted at Wilton Junction, Muscatine County, Iowa, in the month of August, 1862. At the time of his enlistment he was considered a healthy man—active and industrious—a man of remarkably good habits. If I remember rightly his first sickness occurred at Camp Strong, Muscatine, Iowa. This sickness came from being exposed to a cold, chilly rain whilst on camp guard. I remember, while at Columbus, Ky., January or February, 1863, he was very sick and we had no hospital accommodations. I took him into my tent and cared for him for some thirty-six hours. Inflammation of the bowels was thought to be the matter. We got him in the hospital in the city of Columbus, where he remained for some time, and then was sent to Mound City, Ill., where he remained until discharged in the spring of 1863. I can't remember sufficiently to give exact dates, but I do remember that he was in a very low condition when discharged. I know nothing of his present condition, not having seen him for many years. I shall always remember him as an honest, dutiful, upright soldier. Affiant further declares that he has no interest in said claim and he is not concerned in its prosecution.

SIMON H. DIXON,
Captain Company G, Thirty-fifth Iowa Volunteer Infantry.

Attest:

ALPHA F. ORR.
Z. C. TRASK.

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me; that he is a credible person and so reputed in the community in which he resides.

Witness my hand and official seal this 28th day of December, 1897.

[SEAL.]

ALPHA F. ORR,
Notary Public, South Dakota.

JAMES J. FLUKE.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 6649.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 6649) entitled "A bill to remove the charge of desertion against James J. Fluke," having considered the same, recommend that the same do pass with amendment by adding the following:

Provided, That no pay, bounty, or other allowance shall become due or payable by virtue of the passage of this Act.

Mr. Fluke enlisted at the age of 17, September, 1861; was transferred January, 1863, to regular artillery; reenlisted after veteran discharge February 18, 1864, and deserted January, 1866, after the close of the war, to go to his mother, who was dying of consumption.

Relief has usually been granted in these cases.

We add, as appendix, reports of the Department and certain affidavits.

APPENDIX.

WASHINGTON CITY, *February 15, 1896.*

SIR: In reply to your letter of the 14th instant, received to-day, requesting to be furnished with the military record of James J. Fluke, Company I, Fifty-fifth Pennsylvania Infantry, and Battery D, First United States Artillery, and to be informed whether or not he can be relieved from the charge of desertion standing against him on the records of the latter organization, I am directed by the Secretary of War to advise you as follows:

It is shown by the records that James Fluke was enrolled September 3, 1861, in Company A, Fifty-fifth Pennsylvania Infantry, to serve during the war. He appears to have served faithfully to January 18, 1863, when he was discharged by reason of enlistment in Company D, First United States Artillery.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

Hon. J. D. HICKS,
House of Representatives.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 19, 1896.

Respectfully returned to Hon. J. D. Hicks, House of Representatives.

The records of this office show that private James Fluke, Battery D, First United States Artillery, reenlisted February 18, 1864, for three years, deserted January 28, 1866, and never returned to his command.

On the claimant's own application he was furnished, February 14, 1893, a deserter's release under General Order 55, Adjutant-General's Office, 1890, copy inclosed. This protects him from arrest and trial by court-martial, but does not remove the charge of desertion.

The Department has no power to remove the charge of desertion.

J. B. BABCOCK,
Assistant Adjutant-General.

To Committee on Pensions, House of Representatives, Washington, D. C.:

Your petitioner, James J. Fluke, respectfully represents that he resides at No. 518 Seventh avenue, city of Altoona, Blair County, Pa. That he is 52 years of age.

That he enlisted as a private in Company D, First United States Artillery, on the 19th day of January, 1862, and was honorably discharged on the 18th day of February, 1864.

That he reenlisted on same day, February 18, 1864, in Company D, First United States Artillery, and served faithfully and honorably until January 28, 1866, when he left his command at Fort Hamilton, N. Y., without proper leave, to reach the bedside of his mother, who was old and critically ill, and, in consequence of her continued illness, never returned; and further, the war being over, believed his services were no longer required. He also states as a fact that by failing to return he lost his bounty money, to which he was entitled, and all accrued pay, and that all claims that he may have had, or that he might have in the future, relating to bounty and accrued pay, are hereby relinquished.

Your petitioner also represents that he left his command, after four years of continuous service, on the 28th day of January, 1866, in time of peace and not in time of war.

That after he reached his mother's home he remained with her and ministered to her wants because she worried about him and insisted on him remaining with her as long as she lived; and he could not refuse to comply with her wishes, and remained with her until she died, and after her death it was too late to return to the service. He further represents that he was then young and inexperienced, and more impressionable to filial duties than to the duties of military requirements.

He respectfully requests your committee to grant him such relief as will authorize the War Department to issue to him an honorable discharge, dating the 28th day of January, 1866.

JAMES J. FLUKE.

BLAIR COUNTY, PA., ss:

Sworn and subscribed to before me this 4th day of March, 1896.

[SEAL.]

CHARLES M. PIPER, *Notary Public*.

Personally appeared before me, a notary public in and for said county and State, James Morgan, aged 49 years, and whose post-office address is Altoona, Pa., who, being duly sworn, deposeth as follows:

I have known James J. Fluke since boyhood.

I remember his return from the Army in winter of 1865 and 1866. His mother was seriously ill, and he stayed with her because she insisted upon it, and he remained, taking care of her. As she was in bad health, and solicitous concerning him, and pleading with him to remain with her, he acquiesced and done his duty to her to the last. They lived here in Altoona, Pa. Mr. Fluke always bore a good reputation as a man and citizen.

I freely testify to the foregoing facts, as I know them from personal knowledge, being a neighbor at the time.

JAMES MORGAN.

BLAIR COUNTY, PA., ss:

Sworn and subscribed to before me this 5th day of March, 1896.

[SEAL.]

CHARLES M. PIPER, *Notary Public*.

BLAIR COUNTY, *State of Pennsylvania*, ss:

Personally appeared before me, C. M. Piper, a notary public in and for said county, Mrs. Catherine Fluke, wife of William Fluke, aged 52 years, whose post-office address is No. 2000 Eighth avenue, Altoona, Pa., who deposeth as follows:

I knew James Fluke since childhood. Knew he was in the Army. Knew James Fluke returned from the Army in January or February, 1866. He came home to see his mother, who was sick with consumption, and was worrying about him and wanted to see him. She was in ill health and continued so, unable to work, until she died some time later. James Fluke remained at home with his mother because she wanted him near her in her helpless condition. He said he came home without permission and all were afraid to have him go back for fear of trial. His mother insisted on him staying and not leaving her. They resided here in Altoona, Pa.

This is all I can remember about the matter.

Mrs. CATHERINE FLUKE.

BLAIR COUNTY, PA., ss:

Sworn and subscribed to before me this 4th day of March, 1896; and I further certify she is a woman of good repute.

[SEAL.]

CHARLES M. PIPER, *Notary Public*.



GEORGE W. SPENCER.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 872.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 872) entitled "A bill for the relief of George W. Spencer," beg leave to submit the following report and recommend that said bill do pass:

The record shows enrollment April 20, 1861, and discharged September 18, 1861, as "worthless soldier." The bill is to correct the record by erasing these words and grant him an honorable discharge of the same date.

The proof shows clearly that Spencer served faithfully, participated in the battle of Bull Run, and was an active, good soldier; that he was not discharged as a "worthless soldier," but because he was the only support of a widowed mother, who was dispossessed from her home, destitute, and in want of the bare necessities of life.

Col. Charles McK. Leoser indorsed his application to the War Department, and in 1884 made affidavit setting forth that Spencer came to him stating that he needed money as his widowed mother, he being her only support, was about to be dispossessed from her home, and not being able to receive his pay from the Government until he could be mustered, he, the colonel, recommended his discharge on the ground of humanity; that on receiving his discharge, it being granted on the ground of "worthlessness," Spencer was not willing to receive it, but being in great need of money on account of his mother, he was compelled to accept the said discharge. "Deponent further says that the said Spencer while with the regiment was a good, faithful soldier, performing all the duties that were assigned to him." This affidavit was filed in the Adjutant-General's Office on May 26, 1888, with a letter from Colonel Leoser to the Adjutant-General, as follows:

I am requested by George W. Spencer to say that I recommended his discharge for worthlessness because the commanding general was of the opinion that that was the best course to pursue under the circumstances.

Colonel Leoser is recently deceased. John Wildey, his captain, swears that Spencer "was an able and faithful soldier, performing all duties assigned him while with the regiment. That when the regiment was ordered to New York in August, 1861, and while located in the city of New York, the said Spencer informed the deponent that his widowed mother was in destitute circumstances, and he being her only support and she needing his protection, and finding his statement to be true,

recommended to the colonel of the regiment his discharge. The said Spencer was not 'worthless,' but was able and did perform his duties while in the service and regiment."

Robert W. De Grashe, a comrade in the company, swears that Spencer performed his duties as a soldier and has been a man of good character thirty-five years.

His captain and seven members of his company join in recommending that the record be changed from "worthless" to that of being mustered out of the service by order of the War Department, as they believe the record contrary to the facts.

J. J. Merritt, of the wrecking company, in 1886 certifies to knowing Spencer for forty years; that he was an honest and industrious worker from boyhood, and considered a man of character.

Several citizens certify as to his good character for the last thirty-five years.

Spencer's own affidavit is shown in the report.

He has applied for relief since the Fifty-first Congress, as well as to the War Department.

It is clear that his discharge as "worthless soldier" was incorrect, without Spencer's knowledge, and should be corrected.

The case is unique. The propriety of the action of his superiors is not in question. Spencer was innocent of any harm.

Case of George W. Spencer, late of Eleventh New York Volunteers.

The records show that George W. Spencer was enrolled April 20, 1861, and mustered in as a private in Company I, Eleventh Regiment New York Volunteers, May 7, 1861, to serve three years, and was discharged at New York City September 18, 1861, by reason of worthlessness.

In March, 1883, Mr. Spencer executed a petition addressed to the Adjutant-General of the Army praying that his record be amended to show him honorably discharged, in which he stated * * * that he enlisted in the above regiment the 20th day of April, 1861, and was mustered in the United States service on the 7th day of May, 1861, at Washington, D. C., participated in the battle of Bull Run, and upon the regiment being ordered to Newport News he accompanied the same. On or about the 19th day of September, 1861, he was discharged by the colonel of his regiment on the following grounds, to wit: Being the only support of a widowed mother, who was dispossessed from her house and home and was destitute and in actual want of the bare necessities of life. * * *

This was forwarded and indorsed by Charles McK. Leoser, formerly colonel commanding the regiment, as follows: "If the record of Spencer can be corrected as he desires I hope it may be done, as I believe his statement is correct. He has lost his discharge."

Under date of April 28, 1883, Colonel Leoser was informed by letter from the Adjutant-General's Office that the record of Mr. Spencer could not be amended as requested, as the Department has no power to change a record of this kind, since which date the status of the case has not changed.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. A.

RECORD AND PENSION DIVISION, May 16, 1890.

The SECRETARY OF WAR.

O

MICHAEL F. NEWELL.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 1008.]

Your committee, to whom was referred the bill (H. R. 1008) for the relief of Michael F. Newell, have carefully considered the same and beg leave to report as follows:

Michael F. Newell, when a boy of 15 or 16 years of age, enlisted in Company C, Fortieth Regiment New Jersey Volunteers, some time in 1864, without the knowledge or consent of his parents. To avoid disclosing his identity lest his parents might seek to reclaim him from the service, he enlisted under the name of John Nolan, and served under that name until the end of the war. He was a brave and faithful soldier, present in every battle and skirmish in which his regiment was engaged. He was present with his regiment constantly until, while on the march to Washington to take part in the grand parade, his ankle became swollen and lame and he was unable to keep up with his regiment and had to fall out of the ranks. He followed as best he could, but when he reached Washington he did not find his company. He was but a boy, 16 or 17 years of age, knew nothing of the form or necessity of being mustered out of service, but supposed his duties were ended and he had nothing to do except go home.

He had a brother in Pittsburg and, finding a lot of soldiers who were on their way to that city, he joined them. He had no intention of deserting—the war was over, there was nothing to be gained, and no motive for deserting. He had been a brave and faithful soldier, had never flinched in battle, and would not run away when the war was over. His failure to report and be mustered out was due simply to a boy's ignorance and thoughtlessness. He is an excellent citizen and a man of high character and entire credibility, as is testified to by Hon. Thomas A. Morrison, judge of the courts of the county in which Mr. Newell lives; by Senator Bannon, Mayor Dempsey, and others, who know him personally and whose letters were presented to the committee.

There having been no intention of default or wrongdoing on the part of Mr. Newell, it seems entirely unjust that his excellent military record should be marred by an unfounded charge of desertion.

Your committee therefore report the bill favorably and recommend that it do pass with amendment by adding the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

C. S. ALVORD.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROMWELL, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 2231.]

The Committee on Pensions, to whom was referred the bill (H. R. 2231) granting a pension to C. S. Alvord, have considered the same and report as follows:

The claimant was a private in Company D, Fourth United States Infantry, and served from February 9, 1870, until April 22, 1872, when discharged. The records further show that he was discharged at the request of his parents by way of favor.

He filed an application for pension August 25, 1892, alleging that about February 12, 1871, he suffered an attack of the mumps, resulting in disease of testicles. The hospital record shows that during his service he was treated for the alleged mumps, and also for tonsilitis, conjunctivitis, rheumatism, catarrh, and intermittent fever, and he furnished the testimony of neighbors and acquaintances showing that when he returned from the service in April, 1872, he was suffering from a disease of the testicles, the result of the mumps, and that he has continued to be affected thereby each year until the present time. He has been unable, however, to supply the testimony of comrades or physicians, because they are either dead or their whereabouts unknown. A report of medical examination by the Davenport, Iowa, board of examining surgeons, December 7, 1892, shows the claimant to be suffering from varicocele of left testicle, conjunctivitis, and cardiac disease, and a total rating of sixteen-eightieths was recommended therefor.

The claim was rejected by the Pension Bureau, however, it being held that the varicocele above referred to could not be accepted as the result of mumps, and that the testimony was insufficient to prove that the disability was otherwise due to his service.

A numerous signed petition filed with your committee represents that the claimant is worthy and that the relief prayed for should be granted. Upon careful consideration, your committee believe that the claimant should be given the benefit of any doubts there may be as to the origin of his disability, to the extent of allowing him a pension of \$8 per month; and the passage of the bill is therefore recommended with an amendment at that rate.

WARREN W. MORGAN.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WEYMOUTH, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 6799.]

The Committee on Pensions, to whom was referred the bill (H. R. 6799) increasing the pension of Warren W. Morgan, have considered the same and respectfully report as follows:

The claimant served as a private in Company G, Eighth United States Infantry, from September 5, 1838, to September 4, 1843, and while so serving participated in the Florida Indian war. He is now a pensioner at \$8 per month under the Indian war service-pension act of July 27, 1892.

It is shown by the affidavits of Norman Kelley, James L. Adams, and Henry C. Hall, citizens of the town of Killingly, Conn., that the claimant is over 80 years old and without any means whatever, aside from his small pension.

The passage of the bill is respectfully recommended with the following amendments:

In line 8 strike out "twenty" and insert "twelve."

Add after the last word the words "the same to be in lieu of his present pension."

GEORGE W. D. WADE.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROMWELL, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7672.]

The Committee on Pensions, to whom was referred the bill (H. R. 7672) increasing the pension of George W. D. Wade, have considered the same and report:

The claimant was a private in Company A, First Illinois Volunteers, and as such served from June 18, 1846, to June 17, 1847, in the war with Mexico. He is now receiving the pension of \$12 per month provided by the Mexican war acts of January 29, 1887, and January 5, 1893.

The testimony on file at the Pension Bureau, and a petition before your committee signed by 44 citizens of Eddyville, Iowa, show that Mr. Wade is over 80 years old, almost blind, and unable to wait upon himself; also that his pension is all he and his invalid wife have to depend upon for their support. It is also shown that he is a most highly respected and worthy man.

There are several precedents for the proposed legislation, and in view of the facts recited above your committee recommend the passage of the bill.

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MARY E. TAYLOR.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 8904.]

The Committee on Pensions, to whom was referred the bill (H. R. 8904) granting a pension to Mary E. Taylor, have considered the same and respectfully report as follows:

The claimant is the widow of William Henry Taylor, who served as first lieutenant in Captain Goodwyn's company of Alabama volunteers in the Creek Indian war.

The records of the office of the Auditor for the Treasury show that the deceased soldier was paid for service in the above-named organization from May 11 to June 7, 1836—a period of twenty-eight days. No travel pay was allowed, and hence the time consumed in travel is not included within the period of service shown in the record.

Mrs. Taylor filed an application at the Pension Office under the Indian war act of July 27, 1892, but the same was rejected February 28, 1894, on the ground that her husband's service was two days short of the time required by that act. She married the soldier November 6, 1826, and he died September 25, 1879. She is now about 87 years old, and the testimony on file at the Pension Office fully establishes her legal widowhood. There are several precedents for the proposed legislation, and the passage of the bill is respectfully recommended with the following amendments:

In line 6, after the word "company," insert the words "Alabama Volunteers."

After the word "laws," in line 8, add the words "at the rate of eight dollars per month."

MARTHA ANN HYNES.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

R E P O R T.

[To accompany S. 3345.]

The Committee on Pensions, to whom was referred the bill (S. 3345) increasing the pension of Martha Ann Hynes, have considered the same and respectfully report as follows:

The bill is accompanied by Senate Report No. 527, from which the following facts are quoted:

The claimant is the widow of Andrew R. Hynes, deceased, who was second lieutenant of Company C, Fifth Regiment Louisiana Volunteers, Mexican war. She is now 75 years of age and has no means whatever to support herself, nor for several grandchildren who are dependent upon her for their support.

Hon. J. H. Berry, United States Senator from Arkansas, made a statement to the committee that he was well acquainted with the claimant, and fully corroborates the facts herein stated.

The bill proposes to increase the pension of this old and needy woman from \$8 to \$12 per month.

The passage of the bill is respectfully recommended.



SIMPSON EVERETT STILWELL.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUDENSLAGER, from the Committee on Pensions, submitted the following

REPORT.

[To accompany S. 496.]

The Committee on Pensions, to whom was referred the bill (S. 496) granting a pension to Simpson Everett Stilwell, have considered the same and report:

The bill is accompanied by Senate Report No. 184, first session, and the same, fully stating the facts, is adopted by your committee as their report, and the bill is returned with the recommendation that it do pass, amended, however, by fixing the rate of pension at \$12 per month.

[Senate Report No. 184, Fifty-fifth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 496) granting a pension to Simpson Everett Stilwell, have examined the same, and report:

A similar bill passed the Senate during the first session of the Fifty-fourth Congress, and was reported favorably by the House. Your committee recommend the passage of the bill, adopting the report of the Senate committee to the Fifty-fourth Congress, which report is as follows:

The claimant under this bill has a most remarkable record as a scout and guide, and, although not an enlisted man, he performed services such as justly entitle him to pension by special act of Congress. The records show that in addition to performing most perilous duties as a scout, enduring privations and hardships such as few men could have endured, he did actual military service on occasions, exposing his life with a reckless courage that proved him to be a genuine hero. As showing conclusively the value of his services, the annexed petition of the applicant and statements from officers and soldiers with whom he was associated are of interest:

PETITION OF S. E. STILWELL.

ANADARKO, OKLA., March 16, 1896.

To the United States Senate and House of Representatives in Congress assembled:

I herewith present my application for a pension. The grounds on which this application is based are my services as a scout and guide for United States troops while in the field, operating against hostile Indians, and the entire loss of my health, the result of such service.

I commenced scouting early in the spring of 1867, at Fort Dodge, Kans., which post was commanded by (then) Major Douglass. During the early part of the summer of 1867 I was in several small fights or skirmishes with Indians, the most important of which took place at what was then known as the Cimmaron crossing of the Arkansas River. About the 1st of August I was sent as a guide with four troops of the Eighteenth Kansas Volunteers to Fort Hays. From that post I accompanied as scout several different expeditions—one under command of Captain Graham, of the Tenth Cavalry, another under command of Bvt. Maj. G. A. Armes, also of the Tenth Cavalry, and took part in three engagements that summer and fall on the Solomon, Saline, and Republican rivers, in western Kansas.

Early in the spring of 1868, when the Cheyenne and Sioux Indians broke out and raided Spillman Creek settlement, I was employed against them until Gen. George A. Forsyth, then major on General Sheridan's staff, raised his company of scouts at Fort Harker, which company I joined, and remained with him until after his battle on the Arickaree Fork of the Republican River. I am one of the two men (the other long since dead) who carried his dispatches for relief to Fort Wallace by crawling through the Indian lines in the night, and making the trip, a distance of 110 miles, on foot, subsisting entirely on horse meat; but this already is a matter of history. After our return to Fort Hays I was ordered by General Sheridan south to join Gen. G. A. Custer's command, accompanying him on his winter campaign against the Southern Cheyennes, Arapahoes, Kiowas, and Comanches.

During this winter I suffered great hardships while carrying dispatches from Camp Supply to what is now Fort Sill and other points in the field, returning to Fort Hays in May, 1869, when I was ordered to Camp Supply, where I reported for duty to Colonel Nelson, under whose command I remained until January, 1870. In that spring I rejoined General Custer, whose headquarters were at Fort Hays, Kans., accompanying all the scouting parties sent out that summer. In the spring of 1871 I was employed as scout and post guide at Fort Sill, which position I held until the fall of 1876, first under the command of Gen. B. F. Greirson and afterwards under Col. R. S. McKinzie. During the summer months of 1871, 1872, and 1873 I was in the field with different scouting parties almost constantly, taking part in nearly all if not every fight that occurred between United States troops from Fort Sill and the hostile Indians along the border of Texas. The summer of 1874, when all the Indians on the southern reservation went to war, I was in the field with Gen. John W. Davidson's command, and accompanied nearly all of his detachments.

In the winter of 1874 and 1875 I had to undergo great hardships, at one time breaking through the ice on the North Fork of the Red River during a terrible storm, while endeavoring to get news to Capt. William Davis, of the Tenth Cavalry, as to the whereabouts of a Comanche camp. In March, 1875, I made a trip with one white man into the Staked Plains and induced the Quhada Band of Comanches, under the leadership of Moway and Quanah, to come in and make peace, they being the last of the Comanches to surrender. After this I remained at Fort Sill until the fall of 1876. In 1878 I was employed at Fort Davis, Camp Stockton, and other temporary camps in the field, acting as scout and guide with the troops in their operations against the hostile Apaches. From 1879 until 1882 I accompanied several minor expeditions or scouting parties against small bands of Indians. In 1873 and 1874 rheumatism had begun to effect me to the extent that I would sometimes ride with great difficulty, growing worse until 1882, when I was confined to my bed for about six months, and have been so confined at different times since.

By reason of this rheumatism my right knee has become stiffened and has caused a shortening of my right leg of $1\frac{1}{2}$ inches; also my right shoulder and hip are seriously affected; all of which has resulted in preventing me now from performing the necessary labor to gain me a livelihood.

I therefore request that a pension of \$60 per month be allowed me. I have the honor to submit several letters of indorsement from different United States Army officers who know my services.

Hoping for favorable consideration at your hands, I submit this, my petition, and am,

Very respectfully, your obedient servant,

S. E. STILWELL.

WASHINGTON, D. C., *March 7, 1896.*

SIR: Mr. S. E. Stilwell, of Anadarko, Okla., is an applicant for a pension from the Government, basing his claims upon services rendered by him on the Northwestern frontier for the last twenty-eight years. Stilwell is one of the best Government scouts I have ever known. In the summer of 1868, by direction of General Sheridan, I organized and swore into the military service a company of frontiersmen for active service against the Sioux Indians, who at that time were in arms against the Government. In the fall of that year I had a desperate engagement with a large body of Sioux on the Arickaree Fork of the Republican River, on the border of Kansas and Colorado.

We were surrounded and besieged for eight days. Stilwell, with one other man, volunteered to try and steal through the enemy's line and get word of our desperate situation to the commanding officer at Fort Wallace. This he did, and aid was promptly sent us. It was an act of great heroism and still greater peril. Since then Stilwell has served as Government scout with many officers of the Army on the Northwestern frontier. He has always done good service, and is held in deservedly high estimation by all with whom he has come in contact. He writes me that he is

permanently disabled, owing to his hard work in the Government service. I do not know of a more deserving case, and I earnestly recommend that a pension be granted him.

I am, sir, very respectfully, your obedient servant,

GEO. A. FORSYTH,
Brevet Brigadier-General, United States Army.

CHAIRMAN COMMITTEE ON PENSIONS,
United States Senate.

FORT RILEY, KANS., *February 24, 1896.*

I have to state that I knew Mr. S. E. Stilwell when he was employed as a scout by the Government on the plains in 1868. He was one of the party under Bvt. Brig. Gen. George A. Forsyth, United States Army, who, while scouting on the Arickaree Fork of the Republican River in Kansas and Colorado, were attacked by a large force of Cheyenne and Sioux Indians, estimated at about 700. By intrenching and defending themselves with gallantry the scouts succeeded in repulsing the first onslaughts, but were surrounded by the savages, who watched them from every side. Stilwell and another scout volunteered to make the effort to escape through the Indians and obtain succor from the nearest army post. This they did, crawling out at night, at the imminent risk of their lives, and finally succeeded in bringing the news to Fort Wallace, from which troops were sent, resulting in the rescue of Forsyth's party by my command in September, 1868.

Stilwell remained in the service as a scout for a considerable time, and did very arduous and dangerous duty in the Indian campaigns. His gallantry and valuable services demand consideration, and if his health has been broken down it is but just and proper that he should be pensioned by the Government.

L. H. CARPENTER,
Lieutenant-Colonel Seventh United States Cavalry.

HEADQUARTERS DEPARTMENT OF DAKOTA,
St. Paul, Minn., February 24, 1896.

MY DEAR STILWELL: I received your letter yesterday. You had mailed it to Washington, which accounts for delay. I should be very glad, indeed, if you could secure a pension by special act of Congress. Your most valuable services as a scout during the great Indian war of 1868-69 with Cheyennes, Sioux, and others were highly appreciated by my brother, the late General Sheridan, who commanded in those campaigns, and he on more than one occasion commended the bravery and skill by which you got through the Indian lines that surrounded Gen. George A. Forsyth on the Arickaree Fork of the Republican to fetch to Fort Wallace the news of his predicament and the possibility of the annihilation of his command unless he secured immediate aid.

I hope you will be successful, and have no objections to your using this letter to commend you to Congress, if you think it will be of any avail.

Yours, truly,

M. V. SHERIDAN,
Assistant Adjutant-General.

MR. S. E. STILWELL, *Anardako, Okla.*

FORT CUSTER, MONT., *February 25, 1896.*

DEAR SIR: I have received your letter of the 17th instant, and am very sorry to hear of your condition. I trust sincerely that you will be successful in obtaining a pension.

I remember well that you served as a scout and guide for troops of the Tenth Cavalry, when in the field in Texas and Indian Territory, from about 1873 to 1879. Your services were always meritorious, and, at times, invaluable. I write this from personal knowledge, for you were with me when I was in command on several occasions. I know that you served with troops in the campaigns of 1874-1875 against the Kiowas, Comanches, and Cheyennes, and subsequently against the Apaches.

Your career previous to my having personal knowledge of you is well known to me, for the late General Custer speaks of you in his *My Life on the Plains*. I know that you were one of the two men who, when there was not one chance in a thousand of

your getting through, carried the intelligence of Forsyth's condition on the Republican. All this is a matter of history, and can be substantiated by officers now living. You deserve a pension for your services. You are at liberty to use this letter if you think it will be of any use.

Very respectfully,

S. T. NORVELL, *Major, Tenth Cavalry.*

S. E. STILWELL, *Anadarko, Okla.*

FORT WALLAWALLA, WASH., *March 3, 1896.*

I earnestly recommend Mr. Jack Stilwell to the favorable consideration of those who have the power to aid a worthy and deserving man. The writer knew Mr. Stilwell at Fort Hays, Kans., in 1867, as a young fellow who was a scout and guide for some of the military commands engaged in field work in those days. He was on duty as a scout with Colonel Forsyth's command when attacked by a large band of Indians, Cheyennes, Brules, and Ogallala Sioux, some 900 in number, on September 17, 18, 19, and 20, 1868, on the Arickaree Fork of the Republican River in Kansas. I quote Colonel Forsyth's account of the affair to show the confidence he had in his young scout. After defending himself from the savage attacks of the Indians, and with the decreasing numbers of his command, he concluded to send for assistance to Fort Wallace, Kans., some 110 miles distant. He (the colonel) says, in the report of the affair: "I selected two men of a large number of volunteers, Piere Waden, an old trapper and guide, and a young fellow named Jack Stilwell, a handsome boy of about 19 years, with all the pluck and enthusiasm of an American frontier lad, who afterwards became one of the best known and most reliable scouts on our North-western frontier. Better men for the purpose it would have been difficult to find. I gave Stilwell, as he was by far the more intelligent and better educated man of the two, my only map, told him about where I thought we were, and gave him directions to get to Fort Wallace as quickly as possible, tell Colonel Bankhead, the commanding officer and an old friend, our situation, as he would probably send or more than likely come at once to our rescue; to return with him and guide him to us. After midnight he and Waden stole out quietly, walking backward in their stocking feet, carrying their boots slung around their necks, that the impress of their feet in the sand might make a similar mark to a moccasin and deceive the Indians should they discover the sign." This statement is made by Col. G. A. Forsyth in a story of the affair as related in a magazine article in 1895, and is high tribute to worth of Mr. Stilwell and the confidence reposed in him under most trying circumstances.

W. B. KENNEDY, *Major, Fourth Cavalry.*

FORT GRANT, ARIZ., *March 3, 1896.*

To whom it may concern:

I have known Mr. S. E. Stilwell since 1871, when he was employed by the Government as a scout at Fort Sill, Ind. T., which service he performed faithfully and to the interest of the Government, and I believe would be recommended by every officer under whose command he has served.

He was one of the scouts under command of Col. George A. Forsyth, in 1868, at the battle with Cheyenne Indians on the Republican River, and was more than highly spoken of for his bravery and meritorious conduct.

In my opinion he is entitled to a great deal of consideration.

Very respectfully,

T. A. BALDWIN, *Major, Seventh Cavalry.*

FORT ASSINNIBOINE, MONT., *March 1, 1896.*

SIR: Your favor of the 17th ultimo to hand and contents noted. In reference to your application to Congress to grant you a pension in consequence of contracting a disability while in the service of the Government as a scout, I will say that I do not know of anyone more deserving than you for consideration of Congress. I have known you as a scout since 1867. And I don't know of any scout who has rendered greater service or taken greater risks than yourself during all that time. No greater service could have been rendered by anybody than that which you rendered in the rescue of Forsyth's command, and also that which you performed in the Comanche campaign of 1874-75, when you and Kilmartin entered Moway's camp, the last chief

of the Comanches, who held out after we had been in the saddle the greater part of those two years, and which resulted in that chief surrendering and the opening of the Pan Handle of Texas, which was previously a terra incognita to the whites. Wishing you every success before Congress,

I am, sir, very respectfully, your obedient servant,

J. M. KELLEY, *Major, Tenth Cavalry.*

Mr. S. E. STILWELL.

UNITED STATES INFANTRY AND CAVALRY SCHOOL,
OFFICE OF COMMANDANT,
Fort Leavenworth, Kans., March 14, 1896.

DEAR SIR: I understand there is a bill before Congress to give you a pension for disability contracted while performing the hard and dangerous duty as a scout years ago when the Army, ably assisted by such men as you, was paving the way for the advance of civilization in the West. I wish to express to you the hope that the pension will be given you, for in my opinion no soldier is more entitled to it.

Your gallant conduct on the Republican, when, amid a thousand dangers, you volunteered and went for assistance for the command, then besieged and on the verge of annihilation by a murderous horde of savages, has never been recognized, and I trust that, now you are disabled, Congress will provide for your support.

I am, very respectfully, yours,

MARION P. MAUS, *Captain, First Infantry.*

S. E. STILWELL, Esq., *Anadarko, Okla.*

MADISON BARRACKS, SACKET HARBOR, N. Y., *February 24, 1896.*

DEAR FRIEND JACK: I address you as captain because I know you have done more real, hard, dangerous service for the country than hundreds of men who have that title. I first met you personally in 1885, when I had charge of the Cheyenne and Arapahoe Indians in the then Indian Territory. You were with me through my tour there. I had known of your many years of splendid service as guide and scout, of your heroism in Government service on the plains and throughout later years. Under my observation I know you did your full duty, and more, with intelligence, zeal, and fearlessness, and I have heard numbers of prominent officers speak of you in the highest terms. Now that you have passed the meridian of life your many exposures while in the Government service must be telling on you. I hope our great and good Government will fully recognize your valuable services by placing your name on the list of those who are fully entitled to its aid. I assure you that I will take great pleasure in doing anything I can for you.

I think men who have gone through the hardships and trials which you have in opening up and developing the Western country, and have by such service become disabled, are deserving of special consideration.

Now, my friend "Jack," I'll look over the list of Congressmen and Senators, and if I can find one who has not forgotten me, I'll drop him a line on you as a subject.

You can use this letter, or such parts of it as you think best, in any way you think best.

(Better have it copied, because I'm writing on the jump.)

With best wishes for your success in all things, and especially in this,

I remain, as ever, truly your friend,

J. M. LEE,
Captain Ninth Infantry

(*Late Acting Indian Agent for Cheyenne and Arapahoe Indians.*)

Capt. S. E. STILWELL, *Anadarko, Okla.*

DEPARTMENT OF THE INTERIOR, UNITED STATES INDIAN SERVICE,
Omaha and Winnebago Agency, Nebr., February 25, 1896.

To whom it may concern:

Having learned that S. E. Stilwell is endeavoring to obtain special legislation with a view to obtaining a pension, I take pleasure in furnishing testimony to the value of his services. He has been a faithful, efficient scout, and as long ago as 1868 rendered invaluable services to the United States, not only in fighting at the Arickaree Fork of the Republican River, Kansas, with Forsyth's scouts, but in carrying

dispatches through the hostile Indians to Fort Wallace, Kans., for reenforcements to General (then Major) Forsyth, on the occasion referred to.

Later on, Stilwell was scout in the Indian Territory for different commands and was regarded by all officers under whom he served as a reliable, courageous scout. At one time, in 1878, he served under my command in southwestern Texas, and I found him, as usual, intelligent and thoroughly reliable.

He has spent the best years of his life in the service as a United States scout, and always did his duty in a fearless, prompt, and skillful manner, and it is hoped that he will be placed on the pension rolls as a matter of equity.

WM. H. BECK,
Captain, Tenth United States Cavalry.

FORT CUSTER, MONT., *February 25, 1896.*

To all whom it may concern:

This is to certify that I am, and have been, personally acquainted, since 1873, with S. E. Stilwell, popularly known in the Army and amongst plainsmen and frontiersmen as "Jack Stilwell," and whom I have heard termed by the Indians as the "Whirlwind," or "Whirlwind of the Prairies," the latter designation having been given, as I understood, to signify sweep, power, force, rapidity, etc., and to apply characteristically to said Stilwell, generally, as scout, guide, etc., when employed by the Government in that capacity.

I served much with said Stilwell on the frontier, and often in the field with him during the period of Indian hostilities from 1873 to 1876, and ever found him a cool, determined, and resolute man, a most reliable and absolutely trustworthy scout, and possessed of intrepid bravery. During the field operations in northern Texas and the Indian Territory, 1873, 1874, 1875, he performed most commendable and valuable services to the Government, often taking his life into his hands for days at a time in his capacity as scout, and from exposure from winter-weather elements, as well as from the unerring aim of the death-dealing and murderous savage, his life was one of peril, full of almost daily critical exposure of the most hazardous kinds and of long and hard riding of the most trying, fatiguing, and suffering character. I can recall one ride, demanding the utmost endurance, as bearer of dispatches containing information of the highest importance and of most valuable character from the Kiowa and Comanche Agency to the Cheyenne Agency, Ind. T., and return of 150 miles within twenty-four hours' time, when, from the large number of parties of hostiles prowling over and infesting the country through which he passed, the successful accomplishment of the feat seemed as incredible as impossible.

I understand this old, tried, true, faithful, and brave scout is now worn out, broken down, and entirely disabled and in want. I recommend him as a man worthy of consideration and assistance, and for his long and valuable services I earnestly commend and believe him entitled to the sympathy, appreciation, and material assistance of the generous public and substantial aid and recognition of a grateful Government.

OWEN J. SWEET,
Captain, Twenty-fifth United States Infantry.

FORT CUSTER, MONT., *February 24, 1896.*

DEAR SIR: I remember perfectly well the very important services you rendered to the Government when the Tenth Cavalry was in the Indian Territory, and always amidst the greatest perils and exposure. Such service can not be performed without its resulting in great physical disability as the man grows older, and such must be your case. I sincerely trust that the Government will give you the pension so well merited, as your services were invaluable.

Very respectfully,

CHARLES G. AYRES,
Captain, Tenth Cavalry.

Mr. S. E. STILWELL, *Anadarko, Okla.*

EL RENO, OKLA., *March 14, 1896.*

To whom it may concern:

I have known Mr. S. E. Stilwell for twenty years; knew him first as a scout for the United States Government at Fort Sill, Ind. T. I know that he did good and efficient service; that he was trusted fully by Generals Davidson and McKenzie. I

know that his health has been poor since 1883. He has suffered from rheumatism and is unable to perform manual labor. He was instrumental in bringing in Moway and his band of wild Indians. I consider him a most worthy man, and hope our Government may assist him as he deserves.

NEAL W. EVANS,
County Treasurer, Canadian County, Okla.

WASHINGTON, D. C., March 20, 1896.

To whom it may concern:

I have known of Mr. S. E. Stilwell, formerly United States scout and guide, since 1867, and have been personally acquainted with him since the year 1871. He has served with me in the field during many years, often under my command, and I can therefore testify of my personal knowledge of much of his valuable service to the Government during the past twenty-eight years.

Stilwell's first conspicuous service was in the summer of 1868, when scarcely more than a boy. As one of Gen. George A. Forsyth's command, then surrounded by hundreds of hostile Sioux and Cheyennes on the Republican River, in Kansas, he volunteered to penetrate the enemy's lines and carry the news of the desperate condition of the command to Fort Wallace, Kans., a distance of 110 miles, on foot. This he succeeded in doing, the result being the rescue of his beleaguered comrades from certain massacre.

This heroic and perilous feat is typical of Stilwell's course since. No service was ever too difficult or hazardous for him to undertake. Originally possessed of an iron constitution, he for years performed feats of hardship and endurance of which but few men were capable. To these physical perfections Stilwell added an acute perception of the difficulties met with in Indian warfare and an intelligent appreciation of the magnitude of obstacles to be surmounted, so that it was rarely necessary to give him more than general instructions in a given case.

During a service of nearly thirty years on the frontier I have known a great many of Stilwell's class, but, in my judgment, he surpasses them all in the characteristics and in the essentials which make the "scout and guide."

He is now a wreck—worn out in the service of his country, unable longer to earn his living. Congress should, in justice, grant him a pension.

C. E. NORDSTROM,
Captain, Tenth Cavalry.

FORT ROBINSON, NEBR., February 26, 1896.

To all whom it may concern:

I have known Mr. S. E. Stilwell for over a year. He served at my post as chief packer. He is a good and able man when physically fit for duty, but was completely broken down with rheumatism. I have known of him for some years as a man who has seen much hard service in the Government service, and have heard of him as a competent man, and I think one worthy of any consideration that can be bestowed.

JAMES BIDDLE,
Colonel Ninth Cavalry, Commanding Post.

As bearing on the condition of claimant's health, the following medical affidavits are submitted:

EL RENO, OKLA., March 2, 1896.

A. H. Jackson, being duly sworn, testifies that he is a graduate in medicine and a regular practitioner for the past twenty-one years, and has known S. E. Stilwell for the past eight years, and has examined the said S. E. Stilwell and finds him badly afflicted with arthritis of the right knee, which resulted in ankylosis of that joint, and also badly afflicted with rheumatism of the right hip and shoulder; he further testifies that during the past eight years he has known the said S. E. Stilwell to be confined to his bed and room, suffering great bodily pain from the effects of the said disease, and that S. E. Stilwell is wholly unable to perform manual labor from the effects of the aforesaid disease; and that he is not interested directly or indirectly in this application for pension.

ALLISON H. JACKSON.

Subscribed and sworn to before me this 2d day of March, 1896.

[SEAL.]

BENJ. F. HEGLER,
Clerk of the District Court for the Second Judicial District of Oklahoma,
By E. W. HEGLER, Deputy.

EL RENO, OKLA., March 2, 1896.

C. F. McElrath, being duly sworn, testifies that he is a graduate in medicine, and that he has been engaged in practice for twenty-nine years; that he has known S. E. Stilwell for eleven years; that he has treated him at various times during that period for arthritis of right knee, which resulted in ankylosis of that joint; also for rheumatism of right hip and shoulder on account of said disabilities. He has been unable to perform manual labor for the last ten years. He further states that he is not personally interested in said case.

C. F. McELRATH, M. D.

Subscribed and sworn to before me this the 2d day of March, 1896.

[SEAL.]

BENJ. F. HEGLER,

Clerk District Court for the Second Judicial District of Oklahoma.

In view of claimant's long and remarkable service, and the further fact that he is now in destitute circumstances and permanently disabled for manual labor, your committee recommend the passage of the bill.

MICHAEL BASSETT.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHELDEN, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 135.] .

The Committee on Pensions, to whom was referred the bill (H. R. 135) granting a pension to Michael Bassett, beg leave to submit the following report:

This is a bill enacting that the name of Michael Bassett be placed upon the pension roll because of his service in the war with Mexico.

The claimant filed an application for pension under the Mexican war service-pension act of January 29, 1887, declaring that he enlisted at Monroe, Mich., as a private in Captain Dean's company (H) First Michigan Volunteers, Mexican war, and served from October, 1847, until July, 1848.

In support of this claim he filed the testimony of Reuben R. Tingley, of Jackson, Mich., to the effect that there was a Michael Bassett in the above-named company, and that to his (witness's) best knowledge and belief claimant is the same man. Tingley was a member of the company.

Another member of the company, C. W. Sandford, of Manchester, Mich., swears that from a conversation recently had with the claimant he (Sandford) is convinced that claimant was with the company in Mexico, as he relates incidents that he would have known nothing of if he had not been there.

Norton B. Rowley, another member of the regiment, swears positively that he remembers claimant well as being with the regiment in Mexico, and the witness always supposed and believes that claimant belonged to Company H of the regiment. Witness himself belonged to Company K, but they were often on guard together. Witness states that claimant attends the reunions of the regiment and relates incidents of their service in Mexico that he would have known nothing about if he were not there.

William H. Furtain and Michael Betrie, citizens of Detroit, testify to having seen the claimant at Amherstburg, at the mouth of Detroit

River, on his way to Mexico. He was dressed in soldier's clothes and was aboard a steamboat with many other soldiers going to Mexico. Witnesses further state that claimant was gone a long time, and when he returned he told them of his experiences in Mexico.

The records fail, however, to show the service, and on that account the Pension Bureau declines to allow the claim.

The claimant is now over 71 years old, and is utterly unable to account for the absence of his name from the rolls. His own statements are clear and straightforward, and your committee are convinced that the claim is an honest and meritorious one.

The passage of the bill is recommended with the following amendments:

Amend the title so as to read: "A bill granting a pension to Michael Bassett."

Add after the word "laws," in line 7, the words "and pay him a pension of eight dollars per month."

HENRY SCHNETBERG.

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOWE, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7596.]

The Committee on Pensions, to whom was referred the bill (H. R. 7596) granting an increase of pension to Henry Schnetberg, have considered the same and respectfully report as follows:

Similar bills were favorably reported to the House in the Fifty-third and Fifty-fourth Congresses, but owing to lack of time failed to be reached on the Calendar for action. The reports accompanying those bills (Reports Nos. 1404, Fifty-third Congress, and 2484, Fifty-fourth Congress), fully setting forth the facts, are adopted by your committee as their report, and the bill is returned with a favorable recommendation.

The following amendments are recommended:

Amend the spelling of claimant's surname to Schnetberg.

Add after the word "month," in line 8, the words "the same to be in lieu of the pension now drawn by him."

[House Report No. 1404, Fifty-third Congress, second session, and House Report No. 2484, Fifty-fourth Congress, second session.]

The Committee on Pensions, to whom was referred the bill (H. R. 7129) granting a pension to Henry Schnetberg, have had the same under consideration, and respectfully report as follows:

Mr. Schnetberg served from December 21, 1846, to July 14, 1848, in Company B, Second Pennsylvania Volunteers, Mexican war, and during that period participated in many of the battles of the war. Subsequently, and notwithstanding the fact that he was nearly 60 years of age, he enlisted in the Union Army and rendered considerable service during the war of the rebellion.

In 1875 the claimant filed an application at the Pension Office alleging that while in Mexico he contracted rheumatism, and a medical examination, ordered in connection with the claim, showed that he was totally disabled by the disease.

He was unable to furnish the proof required by the Pension Bureau, however, and the claim was disallowed.

On July 5, 1884, a special act of Congress was passed granting him a pension of \$8 per month, and he is now in receipt of that amount. When the act of January 5, 1893, was passed allowing a pension of \$12 per month to pensioners of the Mexican

war who are wholly disabled for manual labor and in destitute circumstances, Mr. Schnetberg made application thereunder, but his claim was rejected on the ground that he was pensioned by special act, and was not, therefore, entitled to the increase provided for those who were pensioned for service under the general law.

A petition signed by 117 citizens of Indiana County, Pa., urging Congress to pass the bill for claimant's relief, is on file with the papers, and in addition to this the necessity for such action is fully set forth in the following letter from Hon. H. K. Sloan, a distinguished citizen of Pennsylvania:

INDIANA, PA., *March 29, 189—.*

MY DEAR SIR: I have the honor to hand you petition of representative citizens of this community—the judge of our court, our clergy, lawyers, physicians, merchants, and laboring men—praying for the passage of a special act of Congress to pay Capt. Henry Schnetberg the pension granted by act of Congress to Mexican veterans for the period which elapsed between the day he became 62 years of age and the date upon which said act of Congress became a law a period of nineteen years ten months and nineteen days. The Captain is now a man of almost 92 years of age, nearly blind, almost totally deaf, and physically helpless. He and his old wife have been living on the pittance of \$8 a month granted by the act of Congress above mentioned. I believe this act was afterwards amended and the pension increased, but it seems Commissioner of Pensions Raum made some sort of rule whereby the Mexican veterans are obliged to establish as a fact that they were paupers before they could receive the benefit of the increased pension.

The petition would have been signed by every man, woman, and child in this community had the opportunity been given them so to do. I scarcely know what you can do in the matter, but if this relief is given it will do nothing more than a mere act of justice to one of the grandest patriots that lives anywhere for the services he rendered, not only in the Mexican, but also during the war of the rebellion. This would enable the old man and his old wife to spend their few remaining days of life in some degree of comfort, and in a measure be a fitting return for the services he so gladly and freely gave to his adopted country in the past.

I earnestly hope, therefore, that you may find some way in which to afford this old man some relief. I have written Mr. Kribbs, Member from the Twenty-eighth district, and trust he may aid you in whatever manner he can.

Yours, very respectfully,

H. K. SLOAN.

Hon. DANIEL B. HEINER,
Washington, D. C.

In view of the foregoing facts and circumstances your committee return the bill with a favorable recommendation.



ALDEN B. THOMPSON

APRIL 5, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRODE, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 3164.]

The Committee on Pensions, to whom was referred the bill (H. R. 3164) granting a pension to Alden B. Thompson, have considered the same and respectfully report as follows:

The claimant enlisted April 25, 1840, and was honorably discharged April 17, 1843, having served nearly three years as landsman on the ships *Ohio* and *Columbus*.

On August 5, 1892, he made application for pension on the grounds of smallpox, deafness, and rheumatism contracted during his service.

The claim was rejected January 2, 1896, on the ground of "no record of service origin."

The evidence in the case clearly establishes the facts that claimant was strong and healthy at enlistment; that he suffered with and was treated for smallpox while in the service, and was also at another time treated in naval hospital, but the record does not disclose the nature of his malady; that when he returned to his home after his discharge he was quite deaf, and suffered severely from rheumatism, being compelled to walk with a crutch or cane.

He did not recover, but slowly became more and more disabled, and is now 80 years old, wholly unfit for any manual labor, and has been for more than twenty years. He is dependent for support upon his children, who are in straitened circumstances, unable to bear the additional burden.

Neighbors who have known him since boyhood testify uniformly to the facts as claimed. Medical and lay testimony combine to sustain the claim as to his present helpless condition.

The surgeons, comrades, and officers who served with him are either dead or can not be located, but the record, so far as it has been preserved, corroborates the claimant in every particular.

His neighbors and all who know him testify to the excellent character and perfect reliability of the claimant.

The case impresses your committee as entirely worthy. The act of July 27, 1892, grants to survivors of Indian wars from 1832 to 1842 a service pension of \$8 per month. In analogy with the spirit of that law, and as this claimant rendered service during the same period, your committee recommend the passage of the bill.

THE CHURCH OF ENGLAND

THE CHURCH OF ENGLAND, 1851-1852
LONDON: 1852

THE CHURCH OF ENGLAND, 1851-1852
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THE CHURCH OF ENGLAND, 1851-1852
LONDON: 1852

DREDGING THE CHANNEL IN NEW BEDFORD HARBOR,
MASSACHUSETTS.

APRIL 5, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany S. 4127.]

The Committee on Rivers and Harbors, having had Senate bill No. 4127 under consideration, report:

In 1893 the legislature of Massachusetts directed the county commissioners of Bristol County to widen the bridge over the Acushnet River, between the city of New Bedford and the town of Fairhaven, and authorized the expenditure of \$450,000 for the construction of said bridge. Later this amount was increased to \$800,000, in order that the same might meet the additional cost largely imposed by the requirements of the War Department, as more fully explained further on.

An old bridge had existed at the place since 1896; its length is about a mile; it passes over two islands, the island nearest the New Bedford shore being known as Fish Island. The present channel of the Acushnet River passes between Fish Island and New Bedford, and the draw for the present accommodation of navigation is located over this channel.

When the plans prepared by the county commissioners were forwarded to the War Department for their approval, that Department directed that an entire change should be made, and that the draw should be located on the other side of Fish Island, a distance of some 900 feet east of the old draw. This location designated by the War Department being in a shoaler portion of the river, required the construction of a channel extending from the present ship channel to the south to the deep water to the north of Fish Island. Surveys of this proposed channel had, however, been made by the War Department in 1896, under the direction of Congress (see river and harbor act of June 3, 1896, sec. 9), and it was decided by the War Department that this proposed change of the location of the draw was essential to meet the increased demands of navigation. The cost of construction of this new channel was estimated by the engineers of the War Department to be \$34,122, and could be accomplished by dredging.

Subject to this modification of the draw, which added some \$200,000 to the original cost of construction of the bridge, the War Department

accepted the plans for construction and the commissioners proceeded with the work, and have now expended more than \$500,000 upon it. In the meantime Congress has failed to appropriate the \$34,122 to dredge the new channel to connect with the new draw which the War Department has ordered. About three-fourths of the entire bridge has been wholly or partially constructed. The work now under way extends from the Fairhaven shore to Fish Island, and the piers for the new draw structure are already partially constructed. On January 17, 1897, Col. John M. Wilson, of the United States Engineers (now Gen. John M. Wilson), recommended to Gen. William P. Craighill, U. S. A., that the old draw between Fish Island and New Bedford should be maintained until an appropriation could be made by Congress for dredging the proposed channel to the new draw; but the year of 1897 passed without any appropriation being made by Congress for this purpose. Meanwhile the contractors of the new bridge have proceeded under their contracts, which have a time limit, and the whole bridge structure from Fairhaven to Fish Island, including the new draw, will soon be completed.

The time has therefore arrived when the written contracts for completing the remainder of the bridge from Fish Island to the New Bedford shore (which includes the site of the old draw) must be made. The Massachusetts laws require all work to be done by the commissioners under written contracts; but the orders of the War Department, requiring the continuance of the old draw until the new draw can be used, prohibit the commissioners from contracting for the remaining portions of the bridge, because this proposed new channel of the War Department has not been dredged, owing to the failure of Congress to appropriate the necessary \$34,122. The work is now at a standstill and the consequences are disastrous. Over \$500,000 have now been expended on this great work, which amount has been borrowed, and the interest charges upon it amount to more than \$20,000 annually. Expensive appliances and workmen are on the site ready to go forward, but are now waiting this appropriation by Congress. A delay means a loss far in excess of the amount Congress is asked to appropriate.

Under the Massachusetts act directing the commissioners to construct this bridge, the expense is to be first borne by the county of Bristol, and when the bridge is wholly completed and the entire expense ascertained, and not until then, it is to be reimbursed to the county by such of the municipalities of Bristol and Plymouth counties as commissioners appointed by the superior court shall decide.

The city of New Bedford has provided a temporary bridge between Fairhaven and Fish Island, at an expense of \$10,000, to accommodate travel interrupted by the construction of the new bridge. This structure, however, was designed to last but a few months, and must be renewed if the new bridge is not completed during the present year.

These considerations, it is respectfully submitted, make this an exceptional case. The dredging can only be done by the War Department and under its control. A great bridge, which will cost more than a million dollars, has been undertaken by Massachusetts, and over half a million has been expended, and its completion is now prevented by act of the War Department until Congress shall appropriate \$34,122.

The city of New Bedford has a population of over 60,000, and the towns connected with it by means of this bridge about 40,000 more.

The committee recommend that the bill pass.

ARMENIAS H. EVANS.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8551.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8551) granting an increase of pension to Armenias H. Evans, have examined the same and all the evidence and respectfully report:

This bill, as amended, proposes to increase from \$12 to \$30 the pension of Armenias H. Evans, of Pekin, Ill., private, Company C, Sixth West Virginia Light Artillery, who served from October 12, 1861, to January 18, 1865, and was honorably discharged. The records fail to show any disability during his term of service. He has filed no claim for pension under the general law. October 18, 1890, he filed a claim under the act of June 27, 1890, alleging rupture on left side, and October 5, 1891, filed another, alleging partial deafness left ear and cataract on right eye, and bad teeth. The hernia is alleged, but not shown, to have originated while in the service about September, 1863. The disease of eyes began to affect him in 1889. Claim was allowed, and he was pensioned, for disease of eyes only, at \$6 from October 5, 1891, and \$12 from April 4, 1894.

Medical examination by board May 6, 1891, showed no hernia, but varicocele and disease of eyes. For the latter he was rated eight-eighths. April 4, 1894, he was again examined by board and no indications of rupture found. The examination, however, showed that his right eye was totally blind and the left eye nearly so, and that he was totally unable to do manual labor. He is shown to have glaucoma in both eyes and to be beyond any possibility of benefit by treatment.

The affidavit of John W. Lambert, of Peoria, Ill., dated July 26, 1893, shows that on August 30, 1892, both eyes were diseased and nearly blind, the vision in right eye then only slight perception of light; left eye, twenty two-hundredths. There were then well-defined cataracts of both crystalline lenses. Also disease of both optic nerves and choroid coats of both eyeballs; optic neuritis and chronic choroiditis. Prognosis at that time for future vision very unfavorable.

July 26, 1893, he was again examined by the same physician, and disease of both eyes was far advanced. No perception of light in right eye, and vision of left eye four two-hundredths. Cataracts of both

lenses increased and will soon blind left eye. Prognosis for future vision hopeless on account of the nerve and choroidal complications.

Dr. William E. Schenck, in an affidavit dated December 23, 1897, and filed with this committee, shows that claimant has anæmia and atrophy of the optic nerves. The sight of right eye is entirely lost, and that of left eye so much impaired that it is impossible for him to go about without the aid and attendance of another person, and it is simply a question of a few months when he will be totally blind. He has consulted a number of specialists in regard to his eyes, but all concurred in the opinion that nothing can be done in the case.

It is also shown by evidence filed with this committee that soldier is destitute of property, income, or means of support, except his pension of \$12 per month, and has a family of four. He is 55 years of age.

Your committee will not permit this blind and worthy soldier to become the inmate of a poorhouse. A reasonable increase is only just, and the bill is therefore reported back with the recommendation that it pass when amended as follows:

After the word "pensions," in line 7, insert "at the rate."

In line 8 strike out "fifty" and insert "thirty" in lieu thereof.

From lines 8 and 9 strike out the following: "from and after the passage of this act."

STATE OF ILLINOIS, *Tazewell County*:

In pension claim of Armenias H. Evans, private, Company C, Sixth Regiment Virginia Volunteers, and Battery A, West Virginia Volunteer Light Artillery. Certificate No. 874163.

Be it remembered that on the 22d day of December, 1897, personally came before me, a notary public in and for said county and State, Armenias H. Evans, the claimant in the above claim, and makes oath as follows: During the year 1863 my eyes were affected at night only, caused by dysentery, and after I got over the dysentery my eyes got better and were affected only as those of a person would be as age grew on; and about 1889 I was working at my trade—the carpenter trade—in Peoria, Ill., when my eyes began to fail and have been gradually failing ever since, until I can hardly see daylight—can not find my way alone, except a path that I am used to travel over. I have a family to support of four persons and can not make a living for them.

I have no property of any kind or character except my pension, that I am now drawing, of \$12 per month. I enlisted October 12, 1861, and was discharged June 18, 1865.

I have had four different noted eye doctors to examine my eyes, and they all said the optic nerves of my eyes were dead and there could nothing be done to benefit my eyes, and ask for special act to increase my pension.

ARMENIAS H. EVANS.

Subscribed and sworn to before me this 22d day of December, 1897; and further say I have no interest in this claim.

[SEAL.]

HENRY CLAY, *Notary Public*.

This soldier lives at my home, at Pekin, Ill.; have known him for twelve years. He is a moral man; does not use intoxicating liquors, and is of good repute. He is blind, distinguishing only light and darkness; has no property and has a family.

JOSEPH V. GRAFF, M. C.

Fourteenth District, Illinois.

February 25, 1898.

STATE OF ILLINOIS, *Tazewell County*:

In pension claim of Armenias H. Evans, private Company C, Sixth Regiment Virginia Volunteers, and Battery A, West Virginia Volunteer Light Artillery. Certificate No. 874163.

On this 23d day of December, 1897, personally came before me, a county clerk in and for said county and State, Dr. William E. Schenck, a regular physician of good standing and a man of honor and strict integrity, and who has practiced medicine

for thirty-four years past, and upon his oath says as follows: I have been the soldier's family physician for the past fifteen years; that his condition is well known to me, and that he is suffering from a diseased condition of optic nerves (anæmia and atrophy); that he has been gradually losing his sight for the past ten years. The sight of right eye is entirely lost, and the left eye has become so much diseased that it is impossible for him to go about without the aid and attendance of another person, and it is simply a question of a few months when he will be totally blind. He has consulted a number of specialists in regard to his eyes, and from them all he receives the same opinion—that nothing can be done in his case. This disability is not caused or protracted by vicious habits. And I further certify that this affidavit is in my own handwriting, and that I have no interest in the claim.

WM. E. SCHENCK, M. D.

Subscribed and sworn to before me this 23d day of December, 1897.

[SEAL.]

ADOLPH FEHRMAN, *County Clerk.*

Dr. William E. Schenck is my home physician, and a man of excellent standing as a physician and a citizen.

JOSEPH V. GRAFF,
Fourteenth District, Illinois.

FEBRUARY 25, 1898.



H. Rep. 4—27

WILLIAM HENRY SMITH.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 795.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 795) granting an increase of pension to William Henry Smith, have considered the same and all the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of William Henry Smith, of Brooklyn, N. Y.

This soldier suffers from a disability of service origin that entitles him to a pension of \$30 per month under the provisions of the general law.

The bill is reported back with the recommendation that it pass when amended as follows:

Strike out all of line 9 and insert in lieu thereof the following: "in lieu of the pension he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to William Henry Smith."

William Henry Smith, late of Company C, Fifteenth New York Volunteer Engineers, served from August 22, 1862, to June 13, 1865, and was honorably discharged.

The records show that he was treated while in service from July 3 to 11, 1862, for "contusion;" September 23 to December 2, 1863, for remittent fever, and December 9, 1863, for neuralgia.

He is pensioned at \$12, under act of June 27, 1890, for rheumatism, piles, and disease of nervous system.

His claim under the general law for injury to back is established and has been legally admitted.

In a slip, dated December 14, 1893, signed by a medical examiner and a medical reviewer, it is stated that he is entitled to a higher rate under the general law for disease of nervous system than he is receiving under act of June 27, 1890, and that alleged disease of back would be covered by approval for disease of nervous system.

Under date of April 6, 1894, another medical examiner approved the claim for "injury of back and resulting disease of nervous system, first grade."

Again, at a later date, it was, by still another medical examiner, approved for "injury of back and resulting disease of nervous system, \$72;" but this approval was changed so as to read, "rejection; no disability from alleged injury of back and affection of head since date of filing. Locomotor ataxia not accepted as the result of alleged injury." Medical evidence was filed showing that the disability was due to disease of spine caused by the injury of back, and a request was made that the claim be reopened, but that was refused on a slip signed by the medical referee, of which the following is a copy:

Respectfully returned to the chief of eastern division. This case has been carefully reviewed and no change of medical action is warranted. The existing disease of spinal cord is not shown to have been due to any injury of back claimant may have received in the service. He appears to have worked steadily for years after discharge, and the history of his case does not afford reasonable grounds for attributing his present condition to his military service.

The evidence shows, and the Pension Office accepts the fact, that claimant's back became injured in the service. He now has a disease of spine, disabling in a degree entitling him to \$72 if due to service. Claimant, his neighbors, and physicians, and apparently the examining boards, and certainly three medical examiners and a medical reviewer, believe the disease of back to be the result of the injury, and no other cause is assigned or even suggested. The preponderance of evidence is in favor of soldier.

STATE OF NEW YORK, *City of Brooklyn, County of Kings*:

I, William Henry Smith, residing at 136 Vanderbilt avenue, in the city, county, and State aforesaid, do solemnly declare that I am the identical person who served as artificer in C Company, Fifteenth Regiment New York Engineer Volunteers, in the United States service during the war of the rebellion, and am unable to perform any kind of manual labor by reason of my weak and debilitated condition, the result of an injury to my back received while in the service aforesaid, and my condition is such that I require the constant care and assistance of another person, as I am unable to help or care for myself. My disability (the evidence and testimony is all on file in the Department of the Interior) shows that I was injured at the battle of Chancellorsville, Va., in laying a bridge at Banks Ford, which injury has resulted in locomotor ataxia.

Application heretofore made for pension under the act of 1890 brought a pension of \$12 per month, which I have been receiving since September, 1891. Under the general law I asked for additional invalid pension, which has been denied by the Department of the Interior.

Now, I humbly pray that in my helpless condition your honorable body, the Congress of the United States, will grant me a pension commensurate with my disability incurred in the line of duty.

WILLIAM HENRY SMITH.

Sworn to before me this 14th day of January, 1896.

[SEAL.]

CHAS. H. BULKLEY,
Notary Public, Kings County, N. Y.

SUSAN I. BARROWS.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 377.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 377) granting a pension to Susan I. Barrows, have examined the same and the evidence and respectfully report:

This bill proposes to pension, at \$12 per month, Susan I. Barrows, of Burnham, Me., the daughter of Silas Barrows, who served in Company E, Eighth Maine Volunteers, from September 22, 1864, to June 12, 1865, when he was honorably discharged. He died December 15, 1869, apparently from disease due to service, though that is not fully shown. He left a widow, a second wife, to whom he was married in 1852, who is not the mother of this claimant, and who is pensioned as dependent mother of her son by a former marriage.

This daughter was born in 1844, and so was 25 years of age when her father died, consequently has no title, not only because the soldier left a widow, but also because she was over 16 years of age when the soldier died.

She is shown to have been an idiot from birth, to have no income, and to be supported by her stepmother and half brother. No one is pensioned on account of the service of her father.

A similar bill was favorably reported in the Fifty-fourth Congress.

The principle, frequently approved by the House, is that such children of soldiers are wards of the nation.

The bill is reported back with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out the following: "at twelve dollars per month."

In line 8, after the word "volunteers," insert "and pay her a pension at the rate of twelve dollars per month."

RUSSELL R. KING.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1887.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1887) increasing the pension of Russell R. King, have examined the same and all the evidence and respectfully report:

The Senate bill proposes to increase from \$6 to \$12 per month the pension of Russell R. King, of Albion, Mich.

The Senate report (No. 226) states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1887) granting an increase of pension to Russell R. King, have examined the same, and report:

A similar bill was introduced in the Senate during the first session of the Fifty-fourth Congress, passed Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

"It appears that Russell R. King was enrolled August 6, 1864, at Jackson, Mich., in the Eighth Regiment Michigan Volunteers, to serve one year, and mustered into service on the 6th day of September following. He was wounded in the left leg at the battle before Petersburg, Va., April 2, 1865. The medical records show that he was treated in Fairfax Seminary Hospital from April 6 to June 12, 1865, for severe shell wound of left knee, and discharged from service June 12, 1865. Claimant was pensioned at \$2 from June 13, 1865, for gunshot wound, and was granted an increase to \$4 October 14, 1885, which was increased to \$6 from March 2, 1895. At this time a claim on account of new disability, due to epilepsy, was rejected because the claimant was unable, in the opinion of the Pension Bureau, to prove that epilepsy originated in the service.

"In support of his application for increase on account of epilepsy the claimant submitted an affidavit from W. B. Fox, M. D., who was surgeon of the Eighth Michigan Regiment from July, 1863, to August, 1865. Dr. Fox stated that he well remembered Russell R. King as a private of Company A of said regiment, and that he had a record of his being wounded in the left knee before Petersburg, and that he further remembers that claimant had an epileptic fit in Washington in May, 1865. Dr. Fox is indorsed as a physician in good standing and as an honest and reliable man. One reason for not accepting his statement is that he is dead and can not be cross-examined, and that his evidence is not corroborated by the official records, which are silent as to the epilepsy.

"Warren E. Brizette, of Albion, Mich., testifies that he knew the claimant before enlistment as a sound man, and has known him intimately from discharge to the

present time (1893); that claimant had a severe epileptic attack in his presence in the spring of 1866, and from observation and hearsay has known of other similar attacks since that time.

"Frank E. Palmer, M. D., of Albion, Mich., states that he has known claimant for the last eight or nine years, and has attended him several times during attacks of epilepsy.

"Several neighbors make affidavits corroborating the above statements in general, indicating that the soldier has for years, and in all probability since discharge, been subject to epileptic fits. The committee is satisfied that the claim of epilepsy as an additional disability has been fairly established, and that with the disability as to gunshot wound of left knee, about which there has never been any dispute, the soldier is now sufficiently disabled to entitle him to the rate of \$12 per month.

"The committee therefore recommend that the bill do pass."

As your committee concur in the conclusion of the Senate, the bill is reported back with the recommendation that it pass.



GRANT OF LANDS TO THE STATE OF FLORIDA.

APRIL 6, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. KLEBERG, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 1156.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1156) to grant lands to the State of Florida for the use of the normal college for white pupils at De Funiak Springs, and for the use of the normal college at Tallahassee for colored pupils, have had the same under consideration and report it back with the recommendation that it pass, with the following amendments:

In line 5, page 1, insert after the words "United States" the words "not held for public purposes;" also in same line strike out "one hundred" and insert "fifty."

The two schools for which this grant of land is intended to provide a fund are both State institutions, having been established by legislative enactment, and are situated at De Funiak Springs and Tallahassee, Fla. They have been in operation only a few years. The object of their establishment was to prepare pupils for the vocation of school-teaching. They are doing a great work in the State in sending out teachers to instruct the youth of both races, but are greatly embarrassed on account of a lack of funds with which to carry on that work, the amount received from the State being totally inadequate for that purpose. About 175 pupils attend the white school, and about 100 attend the colored school each year. A great many more would attend such schools, but with the limited means at their command it is impossible to accommodate a greater number of pupils.

There are several millions of acres of unappropriated lands in the State of Florida, and your committee think that the amount which this bill seeks to donate to these schools can not be put to better use than the purpose provided for in said bill.

LEWIS D. BAKER.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1480.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1480) increasing the pension of Lewis D. Baker, have examined the same and the evidence and report:

This act proposes to increase from \$12 to \$20 per month the pension of Lewis D. Baker, of Hennepin County, Minn.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1480) granting an increase of pension to Lewis D. Baker, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

The petitioner herein is now suffering from gunshot wound in right foot and total deafness in one ear and severe partial deafness in the other, old age, and general debility, in consequence of army service. It appears that he was serving in Company G, New York Artillery. His disabilities have been gradually growing worse, his wounds running and giving him severe pain, and his deafness has been increasing since the 10th of June, 1864. He was treated for deafness in Saterly Hospital, in Philadelphia, in July, August, September, October, November, and December, 1864, and in January, February, March, and April, 1865. The following evidence is submitted in the form of an affidavit:

STATE OF MINNESOTA, *County of Hennepin*:

I have been personally and well acquainted with Lewis D. Baker, the claimant, for the past seventeen years. I know that he is suffering from the effects of a gunshot wound in his right foot. I know that he is deaf in his left ear and very hard of hearing in his right ear. I know that he is an old man and generally disabled and totally incapacitated from the performance of manual labor. I know that claimant is a man of good habits and that his disabilities are not the result of vicious habits, and I believe that they are permanent in character.

F. P. WILSON.

A similar affidavit is also made by J. M. Myers, State of Minnesota, county of Hennepin.

The reports of examining boards corroborate the fact that the petitioner is unfitted for manual labor, and he is entitled to \$20 on account of gunshot wound in the right foot and deafness and heart trouble.

The following affidavit is also corroborative:

STATE OF MINNESOTA, *County of Hennepin*:

I became personally and well acquainted with the claimant, Lewis D. Baker, in 1875, and I have had the claimant in my employ, and I have seen and been with and conversed with the claimant very frequently during each and every year from 1875 to the present. When I first knew the claimant he was hard of hearing, and has been hard of hearing during each and every year from 1875 to the present time. I know that I have always had to speak very hard to the claimant in order that he would hear me. I know the above to be true from personal knowledge gained by conversing with the claimant and observing others in conversation with him.

J. G. JAMESON.

His rating by the examining surgeons was four-eighteenths for wound in the foot, thirty-thirtieths for deafness, and six-eighteenths for heart trouble.

In view of the fact that Lewis D. Baker, petitioner herein, is in extremely indigent circumstances, and his only support is his daughter, who has a meager income, and of his meritorious service in many engagements and his good record, your committee recommend the passage of the bill.

It can not be seriously questioned that this soldier has a disability of service origin entitling him to a pension of \$20 per month. He is much more than disabled from the performance of manual labor.

Your committee, after careful consideration, concur with the Senate, and so report the bill back with the recommendation that it pass when amended as follows:

In line 7, after the word "Artillery," insert "and pay him a pension."



WILLIAM G. MAYER.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HURLEY, from the Committee on Naval Affairs, submitted the following

REPORT.

[To accompany H. R. 320.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 320) for the relief of William G. Mayer, having considered the same, report the bill back to the House with a recommendation that it do pass, with an amendment striking out the last eight words: "or it shall be otherwise provided by law."

This officer served from July 23, 1866, to March 5, 1874, when his voluntary resignation was accepted. His record was honorable and meritorious. He now desires to be placed in a position to give his services to his country if there be need therefor.

The bill expressly provides that no pay or emoluments shall be received by the officer except he be ordered for active duty, and then only for the duties actually performed. The sole purpose of the bill is to give an honorable and efficient former officer an opportunity to serve his country in case of need. The bill as amended should pass.



TICKETS OF ADMISSION TO HOUSE GALLERIES.

APRIL 6, 1898.—Ordered to be printed.

Mr. HENDERSON, from the Committee on Rules, submitted the following

REPORT.

[To accompany House Res. No. 280.]

The Committee on Rules have had under consideration House resolution No. 278, and report the following as a substitute and recommend that the same be adopted:

Resolved, That, until otherwise ordered by the Speaker, there be issued daily by the Doorkeeper to each Representative and Delegate two tickets to the galleries of the House, and the Doorkeeper is hereby authorized and directed to reserve sufficient space to accommodate the holders thereof.

During the pendency of this order the rules as to the members' family and the visitors' galleries are suspended.

BRIDGE OVER TENNESSEE RIVER AT OR NEAR
SHEFFIELD.

APRIL 6, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. FLETCHER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 5428.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5428) to authorize the construction of a bridge over the Tennessee River at or near Sheffield, having had the same under consideration, report the bill back to the House with the recommendation that it do pass.

Attached hereto and made a part of this report will be found the report of the Chief of Engineers, United States Army, also recommending favorable action on the bill.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, January 25, 1898.

SIR: I have the honor to return herewith a letter dated the 21st instant from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing, for the views of the War Department thereon, H. R. 5428, Fifty-fifth Congress, second session, "A bill to authorize the construction of a bridge over the Tennessee River at or near Sheffield," and, in reply to its reference to this office, I beg to say that the bill makes ample provision for the conservation of the interests of navigation, and I know of no objection to its passage by Congress so far as those interests are concerned.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, U. S. Army.

Hon. R. A. ALGER,
Secretary of War.

THE
OFFICE OF THE
SECRETARY OF THE
NAVY

WASHINGTON, D. C.
JANUARY 1, 1900

TO THE SECRETARY OF THE NAVY

FROM THE SECRETARY OF THE NAVY

REPLY

TO THE SECRETARY OF THE NAVY

ORDER OF THE SECRETARY OF THE NAVY

THE SECRETARY OF THE NAVY

THE SECRETARY OF THE NAVY

THE SECRETARY OF THE NAVY

THE SECRETARY OF THE NAVY

THE SECRETARY OF THE NAVY

BRIDGE ACROSS TENNESSEE RIVER AT NEW DECATUR.

APRIL 6, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. FLETCHER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 7339.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 7339) to authorize the construction of a bridge across the Tennessee River at New Decatur, having had the same under consideration, report the bill back to the House with the recommendation that it do pass.

Attached hereto and made a part of this report will be found the letters of the Chief of Engineers, United States Army, and Maj. Dan C. Kingman, of the Corps of Engineers, in charge of Tennessee River improvement, favorably recommending the construction of this bridge.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, February 5, 1898.

SIR: I have the honor to acknowledge the reference to this office of a letter dated the 29th ultimo, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing, for the views of the War Department thereon, H. R. 7339, Fifty-fifth Congress, second session, "A bill to authorize the construction of a bridge across the Tennessee River at New Decatur," and, in returning the same, I beg to say that the bill makes ample provision for the protection of navigation interests on the Tennessee River, and I know of no objection to its passage by Congress so far as those interests are concerned.

In this connection I beg to invite attention to the accompanying copy of a report of the 2d instant from Maj. Dan C. Kingman, Corps of Engineers, the officer in charge of the improvement of Tennessee River, in which he refers to an existing railroad bridge across the river at this locality. This bridge is regarded as one of the worst obstructions, natural or artificial, to the navigation of the river, and Major Kingman expresses the opinion that it would be very desirable if the owners of this bridge and the grantees named in the bill under consideration would unite and build one bridge, suitable for all purposes, and which would not unreasonably obstruct navigation.

Such a consummation, in my opinion, would be decidedly in the interest of navigation, and the proposition is commended to the consideration of the committee.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, U. S. Army.

Hon. R. A. ALGER,
Secretary of War.

TENNESSEE RIVER IMPROVEMENT,
ENGINEER OFFICE, UNITED STATES ARMY,
Chattanooga, Tenn., February 2, 1898.

GENERAL: I have the honor to return herewith House of Representatives bill No. 7339, with the following report:

The object of this bill is to authorize the construction of a bridge over the Tennessee River at or near Decatur and New Decatur, in Morgan County, Ala. This bridge is to be constructed for the passage of railway trains, and may, at the option of the builders, be used for the passage of wagons, animals, and foot passengers.

There is already at Decatur, Ala., a railroad bridge across the Tennessee River. This bridge is used by the Louisville and Nashville Railroad Company, and also by the Memphis and Charleston Railroad Company. I think that the bridge belongs to the latter company. It is not intended for the passage of wagons, animals, or foot passengers. It was built a great many years ago, apparently without the authority of Congress and without any supervision on the part of the United States. It appears to be of inferior construction and of antiquated design. It is one of the worst obstructions, natural or artificial, to the navigation of the Tennessee River.

The draw span is only about 54 feet in the clear opening, and even this small width is reduced about one-third at low water, owing to the fact that the pivot pier is situated on the sloping bank. The passage of this bridge by boats is at all times dangerous and difficult, and sometimes it is impossible for large boats when the river is very low. It will certainly be necessary for the United States to proceed against this bridge before very long and to cause it to be remodeled and rebuilt, at least so far as the draw span is concerned.

It would, therefore, be very desirable if all parties interested in a bridge in this vicinity could unite and construct one bridge which would be suitable for all purposes and which would not unreasonably obstruct navigation. If this can not be done then the accompanying bill will undoubtedly secure the construction of a suitable bridge so far as it is concerned, but it does not do away with the existing obstruction.

It appears to be properly drawn to protect the interests of the United States.

Very respectfully, your obedient servant,

DAN C. KINGMAN,
Major of Engineers.

Brig. Gen. JOHN M. WILSON,
Chief of Engineers, U. S. Army, Washington, D. C.

○

HERBERT W. LEACH.

APRIL 6, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WEYMOUTH, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 6482.]

The Committee on Pensions, to whom was referred the bill (H. R. 6482) granting a pension to Herbert W. Leach, have considered the same and report:

This is a bill enacting that Herbert W. Leach, who served under Commander George W. De Long in the ill-fated *Jeannette* arctic expedition, be placed on the pension roll.

The following report from the Navy Department shows the service rendered:

DEPARTMENT OF THE NAVY,
Washington, D. C., April 18, 1896.

SIR: Replying to your letter of the 17th instant, I have the honor to state that Herbert W. Leach enlisted at New York May 17, 1879, as seaman, for the cruise of the *Jeannette*, served on board of that vessel until she was lost, and was discharged June 1, 1883, by direction of the Secretary of the Navy.

Respectfully,

F. M. RAMSAY,
Chief of Bureau.

Hon. H. C. LOUDENSLAGER,
House of Representatives.

The affidavits accompanying the bill show that the claimant's health has been practically destroyed by the terrible hardships, sufferings, and exposure endured during that memorable expedition, and that he has been rendered unable to earn a support at his usual avocation.

The facts are sworn to by the claimant and by Joseph M. Hutchins, chairman county commissioners, Hancock County, Me., and the latter states that the claimant is an honest, upright, and worthy man.

There are several precedents for pensioning the disabled survivors of the *Jeannette* expedition, and your committee believe that such precedents may safely be followed in this case.

The following amendment is recommended:

In line 5 strike out the word "twenty-five" and insert in lieu thereof the word "twelve."

ANNIE J. BASSETT.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7989.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7989) granting an increase of pension to Annie J. Bassett, have examined the same and respectfully report:

This bill as amended proposes to increase from \$8 to \$15 per month the pension of Annie J. Bassett, of Washington, D. C., the widow of Wesley W. Bassett, who served in the United States Navy from March 9, 1838, when appointed a midshipman, until September 22, 1854, reaching the rank of master.

March 24, 1862, he was appointed an acting assistant paymaster, United States Navy, with the relative rank of ensign, and his resignation was accepted January 14, 1865.

June 8, 1872, he was appointed a master in the Navy, on the retired list. March 22, 1875, he was promoted to lieutenant-commander on the retired list, and died June 4, 1894, at the age of 75, from "chronic nephritis, Bright's disease, exhaustion" of four years duration, having served in the Navy over forty-one years, over nineteen on the active list.

Claimant is pensioned at \$8 per month as his widow under the act of January 29, 1887, on account of his service in the Mexican war. She was married in March, 1861, and is 59 years of age. She is shown to have no property, no income, and no means of support except her pension of \$8 per month, which seems to be inadequate to supply her needs.

This widow of a naval officer, who gave his entire life to the service of his country, and who was the wife during the late civil war and is now in necessitous circumstances through no fault of her own, is, in the judgment of your committee, entitled to a reasonable increase of her pension.

This officer did not die of disease contracted or of disabilities incurred in the service, and an increase to \$15 per month, nearly double what she is entitled to under the general laws, is all that can be justified.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 4 strike out the following: "Mrs. A." and insert "Annie" in lieu thereof.

In line 7 strike out the word "thirty" and insert the word "fifteen."

JENNIE E. BURCH.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 368.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 368) granting a pension to Jennie E. Burch, have examined the same and the evidence and respectfully report:

This bill proposes to pension Jennie E. Burch, of Sioux Falls, S. Dak., as army nurse, at \$12 per month. She filed a claim June 23, 1893, under the act of August 5, 1892, alleging service as army nurse at Fort Wayne and Evansville, Ind., and at Calhoun, Bowling Green, and South Carrollton, Ky., and on the hospital steamer *Thomas Tutt* in 1861 and 1862; that she contracted chronic diarrhea while so serving and is now disabled by that, together with rheumatism, neuralgia, varicose veins, and piles.

It is shown by the records that she was employed as a nurse in the marine hospital at Evansville, Ind., in December, 1861, but that hospital was not then a United States Army general hospital, though sick and wounded soldiers were cared for under contract. The War Department declines to accept her service as being "by competent authority."

It is shown by the testimony of Lieut. Nicholas Ensley, of Company K, Forty-second Indiana Infantry, that she served as nurse through the latter part of October, 1861, until about the latter part of April or the 1st of May, 1862, in regimental hospital and field hospital at South Carrollton, Calhoun, and Bowling Green, Ky.; also at the marine hospital at Evansville, Ind. In December, 1861, he was nursed by her in said hospital for measles.

Elias O. Rose, first lieutenant of Company A, Forty-fourth Indiana Volunteers, also testifies to her service as nurse in the regimental hospital of the Forty-fourth Indiana Volunteers at Evansville, Ind.

George W. McConnell, quartermaster of the Forty-fourth Regiment, testifies that she was with the regiment as a nurse from the time of its organization, in October and November, 1861, rendering then and thereafter service as a nurse.

John H. Rerick, assistant-surgeon, Forty-fourth Indiana Volunteers, also testifies that she rendered service as nurse with that regiment.

Cary R. Frisbee testifies to having been cared for by her as nurse in the measles ward, hospital at Evansville, Ind.

Norman Sessions, Company H, Forty-fourth Indiana, testifies that he was cared for by her while sick in the service.

John H. Gillett, same company, testifies that she served as nurse in the regimental hospital in January and February, 1862, and on the boat the time of the trip to Fort Henry and Fort Donelson.

The father and mother of the claimant testify that she left her little child, 2 years old, with them, and served in the Army as nurse from that time, October 25, 1861, to April, 1862. That she returned home the last day of April, 1862, broken and sick from the strain and exposure, which ran her into typhoid fever, from which she was confined to her bed, and the effects follow her through life.

She was the wife of Joseph W. Burch, of Company A, also hospital steward Forty-fourth Indiana Volunteers, and it does not appear whether said soldier is living or dead, or whether she or anyone else is pensioned on account of his service.

She is 58 years of age and physically disabled. Her financial condition is said to be very poor.

The bill is reported back with the recommendation that it pass.



ALMON STUART.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 2276.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2276) granting an increase of pension to Almon Stuart, have considered the same and all the evidence and respectfully report:

This bill proposes to increase from \$12 to \$30 the pension of Almon Stuart, of Mindon, Nebr., who served from August 27, 1861, to September 6, 1864, and was honorably discharged.

He filed and established a claim under the general law for gunshot wounds of right hip and left index finger, and was pensioned therefor at \$3 from discharge and \$6 from April 2, 1881, until July 7, 1890, from which date he was allowed \$12 under the act of June 27, 1890, for gunshot wounds of right hip and left index finger, slight deafness in both ears, and cancer of nose.

It is shown by evidence filed with this committee that the cancer has progressed until it has destroyed almost the entire nose and the sight of right eye, and renders him wholly unable to do manual labor. He is 76 years of age. His financial condition is very poor, indeed.

This old soldier can survive but a very short time, and as he served his country faithfully for over three years it will not see him in want. The case is exceptional and meritorious, and Congressional action is fully warranted.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 6 strike out the following: "of Minden, Kearney County, Nebraska,"

At the end of line 9 insert: "in lieu of the pension he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Almon Stuart."

STATE OF NEBRASKA, *County of Kearney, ss:*

Ed L. Adams, being first duly sworn, upon his oath deposes and says that he is now and has been for more than eight years last past acquainted with Almon Stuart, of Minden, Nebr. The said Almon Stuart is now more than 76 years of age. During all the time that I have known him he has been suffering from wounds alleged to have been received while serving his country during the late unpleasantness between the North and the South, the exact location and nature of which I am not able at this time to describe; but that during all of said time he has been afflicted with an eating cancer of the nose, which has during said period eaten away and destroyed almost the entire nose, entirely closed one eye, so that the said Almon Stuart is at the present time an object of pity and a subject who, having served his country during the period for which he enlisted, is an object of pity and entitled to all the emoluments which this Government, through its officers-elect, may bestow upon him. We further say that unless the bill already introduced is hastily passed the said Almon Stuart, in his present condition, will never receive any benefits therefrom.

ED L. ADAMS.

Subscribed and sworn to before me this 11th day of January, 1898.

[SEAL.]

M. D. KING, *County Judge*.

STATE OF NEBRASKA, *County of Kearney, ss:*

Comes now J. H. Robb, county superintendent of schools for said county, who, being first duly sworn by me, upon his oath says as follows: I have been a resident of Kearney County, Nebr., for fifteen years; have known one Almon Stuart, of said county, during all that time. About five or six years ago I first noticed that he had a cancer on the right side of his nose. When I first noticed it it was not very bad, but of late years it has been getting worse very rapidly, and at this time nearly the whole of his nose has been destroyed, and he suffers very great and constant pain on account thereof. I meet him now, and have so met him for the last few years, about at least once every week, and in my judgment he is entirely unable to perform any manual labor.

J. H. ROBB.

Subscribed and sworn to before me January 11, 1898.

[SEAL.]

M. D. KING, *County Judge*.

STATE OF NEBRASKA, *County of Kearney, ss:*

Comes now L. M. Slusser, who, being by me first duly sworn, on his oath deposes and says that he is a resident of said county and State and has been such resident for the last past eighteen years. He is well and personally acquainted with one Almon Stuart, and has known him for the last past eighteen years. Has seen and met him for the last past nine years about every day, and knows his physical condition well. He is affected with a cancer on the face, being on the right side of his nose, and is now so bad that it covers his right eye entirely, and the same is totally blind. He is entirely unable to perform any work of any kind. I am acquainted with his age, and say that he is now 76 years of age and past. Further deponent saith not.

L. M. SLUSSER.

Subscribed and sworn to before me January 11, 1898.

[SEAL.]

M. D. KING, *County Judge*.

STATE OF NEBRASKA, *County of Kearney, ss:*

I, W. H. Thompson, being of lawful age, and being first duly sworn, on oath do say that I am now and have been for the last past nineteen years a resident of Kearney County, Nebr., and that I have for the last past seventeen years known and been personally acquainted with one Almon Stuart, now a resident of the said county; I have during the last past seven or eight years met him almost every day. I first noticed that he had a cancer on his face about twelve years ago. Said cancer has been growing worse ever since, until now it covers nearly the entire right side of his face. The right eye is entirely eaten out. I have it from hearsay that he is past 76 years of age, and from his appearance I believe it to be true. He is entirely unable to perform any work of any kind; in fact he is scarcely able to be around town at all. Further deponent saith not.

W. H. THOMPSON.

Subscribed and sworn to before me January 11, 1898.

[SEAL.]

M. D. KING, *County Judge*.

STATE OF NEBRASKA, *County of Kearney*, ss:

W. I. Stevens, being first duly sworn, says as follows: I have lived in Minden, Kearney County, four years. I became acquainted with one Almon Stuart, of said town, about the time I came here. He was at that time badly afflicted with cancer on the right side of the face. It has been ever since said date growing worse, and now covers the larger part of the right side of his face. His right eye is entirely gone; his nose is all gone except a very small part of the nasal bone. His condition is such that at this time he is entirely unable to perform any work of any kind, and is only able to be out of his house a small part of the time.

W. I. STEVENS,
Chairman Soldiers' and Sailors' Relief Committee.

Subscribed and sworn to before me January 11, 1898.

[SEAL.]

M. D. KING, *County Judge.*

STATE OF NEBRASKA, *County of Kearney*, ss:

Comes now J. A. Martin, who, being of lawful age and being by me first duly sworn, on his oath says as follows: I have known Almon Stuart for the last thirteen years; know him to be temperate in all things; his disease is not of vicious habits; his nose and right eye are nearly entirely gone as a result of cancer; he is also suffering from bullet in limb. His age is 76 years, and in my opinion senility plays no part other than his pathological condition, and that he is entirely unable to earn a livelihood by manual labor by reason of the above diseases.

J. A. MARTIN, M. D.

Subscribed and sworn to before me January 11, 1898.

[SEAL.]

M. D. KING, *County Judge.*

STATE OF NEBRASKA, *Kearney County*, ss:

E. C. Dailey, being first duly sworn, deposes and says that he has been acquainted with Almon Stuart for about five years last past, and that his condition physically is indeed deplorable, having a cancer upon his face that has almost completely destroyed his nose, and that he is a constant sufferer therefrom and seems never to be free from pain as a result of the eating process of said cancer.

Mr. Stuart is now 76 years old and is unable to perform any manual labor, and it is about all his remaining strength will stand for him to come to town and return to his home, which is in the outskirts of the city.

E. C. DAILEY.

Subscribed in my presence and sworn to before me this 11th day of January, 1898.

[SEAL.]

M. D. KING, *County Judge.*

STATE OF NEBRASKA, *County of Kearney*, ss:

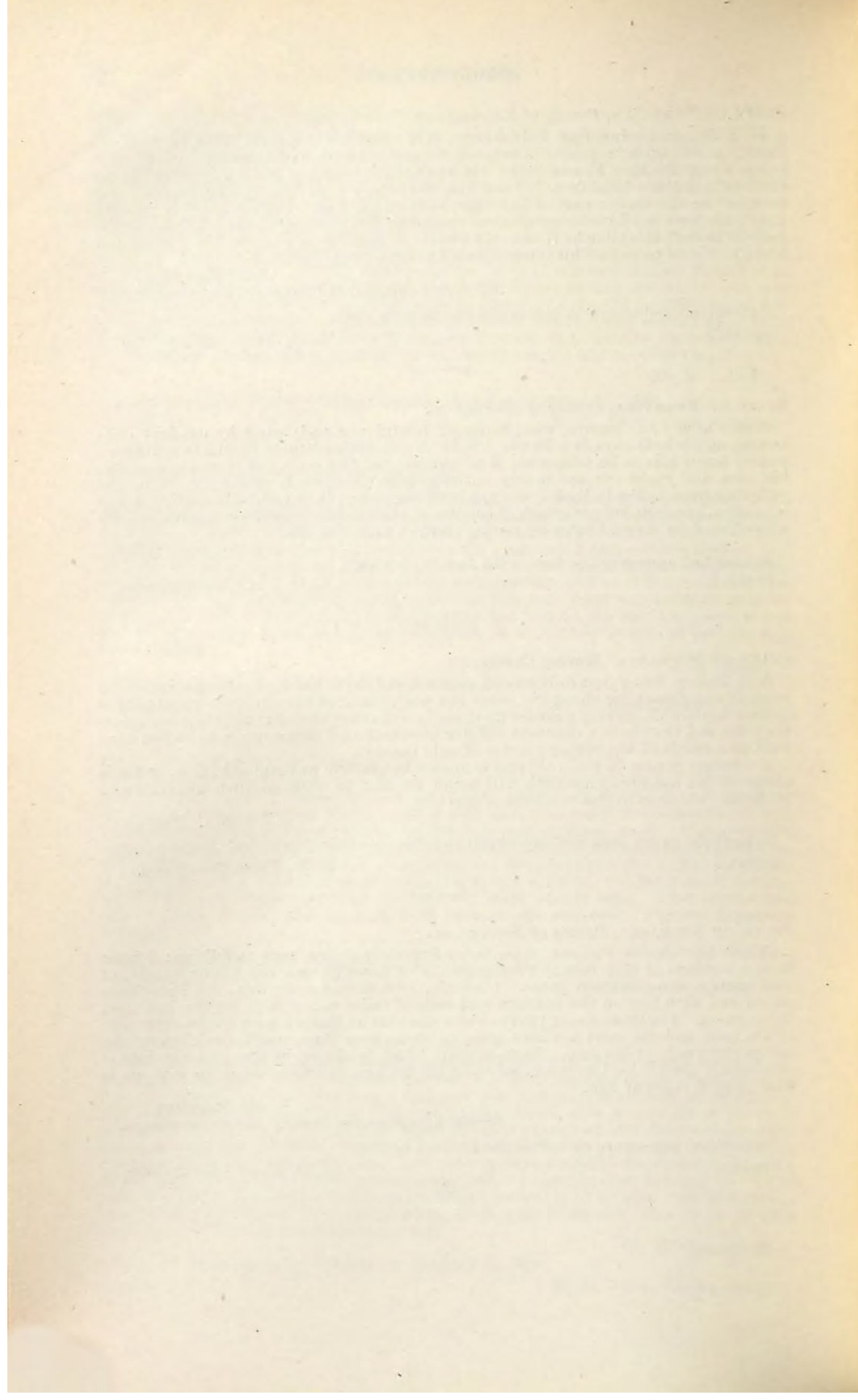
Comes now James Robison, who, being first duly sworn, says as follows: I have been a resident of this county twenty years. I have known one Almon Stuart, of said county, about sixteen years. I see him now almost every day, and have been associated with him on the soldiers and sailors' relief commission for the last past three years. I noticed about twelve years ago that he had a cancer on the right side of his nose, and the same has been growing worse ever since, until now it covers the entire right side of his face. He is entirely blind in the right eye and his nose is completely gone. He has frequently told me his age, and from what he says he is now past 76 years of age.

JAMES ROBISON,
Secretary Soldiers and Sailors' Relief Commission.

Subscribed and sworn to before me January 8, 1898.

[SEAL.]

M. D. KING, *County Judge.*



MARIA SOMERLAT.

APRIL 7, 1898.- Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2378.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 2378) granting a pension to Maria Somerlat, have considered the same and all the evidence and respectfully report:

This bill in effect restores to the pension roll at \$12 per month the name of Maria Somerlat, of Hagemen, Mich.

This claimant was the wife of Valentine Somerlat, private, Company A, Twenty-ninth Indiana Volunteer Infantry, who died in Andersonville prison in 1864. She was pensioned until 1881, when she married one Hiram Smith; subsequently she obtained a divorce from Smith on account of his wrongs. She is now poor, a woman of good character, and in effect a widow.

Following the rules laid down by this committee and approved by the House, the bill is reported back with the recommendation that it pass.

Amend the title so as to read: "An act granting a pension to Maria Somerlat."

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JAMES E. JONES.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7260.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7260) granting a pension to James E. Jones, have carefully considered the same and the evidence relating thereto, and respectfully report:

This bill proposes to pension James E. Jones, of Hornellsville, N. Y., at the rate of \$25 per month.

This soldier was a resident of Kansas at the time of his enlistment, but temporarily in Washington, and when Fort Sumter was fired upon he enlisted in James H. Lane's company of Kansas volunteers for the protection of the capital. He served for three months. He then entered the service of the Government and served continuously and shared the duties and dangers of the campaigns of 1862. He reached the rank of major and was assistant quartermaster and served until after the close of the war, and rendered remarkable and valuable military service and was many times exposed to great hardships and dangers. At one time he was chief quartermaster of the cavalry bureau in Washington. Brigadier-General Sawtelle says that his services were meritorious and distinguished. He is now old, poor, broken down in health as the result of his army service, and without means of support.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "pension," insert the words "at the rate of."

WASHINGTON, D. C., March 29, 1898.

SIR: I make the following statement in relation to H. R. 7260, a bill granting a pension to James E. Jones:

I have been personally acquainted with Col. James E. Jones since 1858. He enlisted early in 1861 and was in the Quartermaster's Department of the Army nearly all the time until 1866. He was appointed captain and assistant quartermaster by President Lincoln; was brevet colonel and assistant quartermaster when mustered out of service.

During these years I met Colonel Jones often and know personally of his faithful service.

Regarding his present condition, financial and physical, say that I know from personal knowledge that Col. James E. Jones is a broken down old man and unable to do any manual labor and that he is poor and has no means of support.

I am, respectfully,

CHARLES W. GILLET,

Member of Congress, Twenty-ninth District of New York.

Hon. GEORGE W. RAY,

Chairman of Committee on Invalid Pensions.

In April, 1861, I was a resident of the Territory of Kansas, holding the office of register of the United States land office at Lecompton. At the date of the firing upon Sumter I was temporarily in Washington and enlisted in Gen. James H. Lane's company of Kansas volunteers, for the protection of the capital, and many days and nights was quartered in and guarding the White House. This service was for a term of three months. In August of the same year I was employed in a confidential capacity at the great depot at Perryville, Md., by Captain, now General C. G. Sawtelle, assistant quartermaster, United States Army.

During the succeeding autumn and winter I was not absent a day, devoting from twelve to eighteen hours on important duties connected with the depot, and after superintending the shipping of that immense organization to Fort Monroe, March, 1862, I accompanied General Sawtelle to the Peninsula and shared in the duties and dangers of that memorable campaign, under Generals Ingalls and Sawtelle. I had charge of the hundreds of steam and sailing craft that carried the Army and its supplies.

When the Army was withdrawn from Harrisons Landing my headquarters steamer was the last to leave that point, and I literally chased our great fleet to Hampton Roads. I was then engaged in forwarding to Aquia Creek and Washington all the remaining supplies of the Army of the Potomac. I was then ordered to Washington and aided my commanding officer in reorganizing and equipping the land transportation that had fared so badly in the army of General Pope. While the Army was awaiting supplies and clothing, after the battle of Antietam, great and vexatious delays occurred on the Pennsylvania Railway and its branches. It seemed almost impossible to get cars to Hagerstown, Md., via Harrisburg. Armed with a proper order, I was detailed by Captain Sawtelle to push the matter to a successful conclusion, which I did after ten days and nights of almost constant labor and peril. I was most generously complimented for my service.

In November my health forced me to seek rest. I returned to my old home in New York and was for six months under medical treatment.

In the summer of 1863, when the depot of the cavalry bureau was established near Washington, under command of General Stoneman, with Captain Sawtelle in immediate charge, I was soon thereafter made the general superintendent, and continued in that capacity until the following February, when I was appointed captain and assistant quartermaster by President Lincoln, as a reward for long, faithful, and arduous service. I immediately reported to General Meade and was, by order of General Ingalls, placed in charge of the depot at Culpeper, Va., including all stations beyond until the line of the enemy was reached.

In supplying the Army my duties were constant and arduous. When General Grant moved, on the 4th of May, 1864, I was placed in charge of the Second and Fifth Corps trains. Not an animal or wagon was lost while under my command. On the evening of May 7 I was detailed by General Meade to convey the wounded to Rapahannock Station for shipment to Washington. Six hundred wagons were provided for this melancholy service; they were speedily loaded with the wounded and sick, and when the fords of the Rapidan were reached a large force of the enemy confronted us. Upon my reporting the fact the order was changed and I was directed to proceed to Fredericksburg. By this time my charge, in the wagons and limping along on foot, was quite 6,000 men.

The head of my train reached Fredericksburg at 3 a. m. the following day. All the vacant buildings, including churches, were at once taken possession of; also many houses. The railway was in operation from Hamilton's Crossing to Richmond, and the Confederate cavalry captured 75 wounded men and forwarded them to Richmond.

I at once seized all the male citizens of Fredericksburg and turned them over to General Ambercrombie, he holding them as hostages. A correspondence between Generals Grant and Lee soon effected an exchange, and our men promptly returned. As soon as General Ord heard of this fact he had me brevetted major.

I at once sent a party of trusty men to Bell Plains in charge of Henry Allen, with letters to Generals Meigs and Rucker, and directed him to hail a gunboat and then

proceed with all possible haste to Washington. Mr. Allen brought almost instant relief. A fleet of steamers soon reached Bell Plains, where they met the column of wounded that I had in the meantime conveyed to that point. Large reinforcements from the States arrived, and I was ordered to furnish guides and conduct them to the Army. I also sent trains of ambulances, under a flag of truce, to gather the wounded that had been left in the Wilderness. Nearly three weeks elapsed before the wounded were sent away, when the place was abandoned. I gathered all the public property and joined the Army while it was encamped in the vicinity of the Chickahominy. I was then ordered to Whitehouse, on the Pamunky River, and succeeded in disembarking General Smith's corps, that had been sent by water from Butler's army to reinforce the army of General Meade.

The railway was soon put in operation to dispatch stations and I was placed in charge. By this route Grant's army was supplied and made ready for the march to the south side of James River. From this point I conducted a fleet of steamers via Fort Monroe and proceeded to City Point. The general depot field hospitals were here located and I was detailed to construct winter quarters. With the aid of 250 men, assigned to me from the Fiftieth Regiment New York Engineers, I erected log buildings with a capacity for 5,000 men, with pure water from springs forced through pipes by steam. For this service General Ingalls had me brevetted lieutenant-colonel and colonel.

On the 1st of March, 1865, some doubts arose in regard to supplies. I was sent to Fort Monroe in charge of water transportation.

I will only add that constant efforts of mine overcame all difficulty. I also supplied General Sherman's army through the Dismal Swamp Canal and Albemarle Sound.

I was mustered out in April, 1866. My last eight months was at Albany, N. Y., as chief quartermaster of that department.

I have never asked for a pension; was always able to maintain myself and family; but now I am broken in health, and advancing years compel me to make this request from a generous Government that I tried faithfully to serve.

J. E. JONES,
Late Brevet Colonel and Quartermaster.

ENGLEWOOD, N. J., *January 18, 1898.*

DEAR SIR: Understanding that Col. James E. Jones, late captain and assistant quartermaster and brevet colonel, United States Volunteers, is about to make application for a pension, I desire to make the following statement regarding the services of Colonel Jones while he was associated with me during the late war of the rebellion:

During the first three years of the war Colonel Jones served in the Quartermaster's Department almost continuously under my immediate direction, and rendered most important and valuable service as my principal assistant; first, from August, 1861, to March, 1862, in organizing, at Perryville, Md., the immense trains required for the land transportation for the Army of the Potomac and subsequently in the disembarkation, at Fort Monroe, Va., of the troops and impedimenta of General McClellan's army; in supplying that army during its Peninsula campaign, and, on the withdrawal of the army from the Peninsula to Washington, in the reembarkation from Harrison's Landing on the James River, and from Fort Monroe, Newport News, Hampton, and Yorktown, Va., and in the supplying of that army while in the campaign which resulted in the defeat of the rebel Army of Northern Virginia at Antietam, Md.

In the performance of the manifold and responsible duties with which he was charged during all this time I always found Colonel Jones faithful, zealous, untiring, and efficient, and the service was not only arduous, but often hazardous, and in it he was subjected to much exposure.

In the summer and autumn of 1863, when I was chief quartermaster of the cavalry bureau in Washington, Colonel Jones was again employed under my immediate direction as "general superintendent," in which position he rendered most valuable service. I also know that as a commissioned officer of the Quartermaster's Department, from February, 1864, till he was mustered out in April, 1866, his services were meritorious and distinguished, and I very sincerely and earnestly hope that his application for a pension may receive favorable consideration.

Very respectfully, your obedient servant,

CHAS. G. SAWTELLE,
Brigadier-General United States Army, Retired,
Late Quartermaster-General United States Army.

The COMMISSIONER OF PENSIONS,
Washington, D. C.

STATE OF NEW YORK, *County of New York*, ss:

Personally appeared before me James E. Jones, who testifies as follows:

For the past two years I have been physically unable to attend to any kind of business. I, of course, can not trace this condition to directly result from the four years I spent in marching and camping with the Army, but I do conscientiously believe that no person could subject himself to similar hardships without impairing his general health. I have no income and have been compelled to mortgage what little property I have for the support of my family since I have been incapacitated for labor.

J. E. JONES.

Sworn to before me March 4, 1898.

[SEAL.]

JOHN P. COHALAN,
Notary Public, New York County.



JOHN CONNOLLY.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8243.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8243) granting a pension to John Connolly, have carefully examined the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at \$8 per month John Connolly, of 404 State street, Brooklyn, N. Y., as dependent father of Thomas Connolly.

Thomas Connolly served as a private in Company A, Sixty-ninth New York Volunteer Infantry, from July 1, 1864, to June 30, 1865, when he was honorably discharged. He was captured August 25, 1864, about two months after his enlistment, and was held as a prisoner about six months at Richmond, Va., and Salisbury, N. C. While in prison he was treated for diarrhea and debility. He claims that he contracted rheumatism while in prison, but he can not prove origin, as he was among strangers and in a Confederate prison. He was pensioned by special act for rheumatism. He died January 13, 1875, from lung trouble. He was admitted into the Soldier's Home at Milwaukee, Wis., March 11, 1871, with, as the records show, "chronic rheumatism contracted while a prisoner of war."

It is quite probable, and there is much evidence to show, that the soldier died of disease contracted in the service and while in prison. He was only 20 at enlistment. The father, this claimant, is 73 years of age and poor.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 8 strike out the words "in the war of the rebellion."

Amend the title so as to read: "A bill granting a pension to John Connolly."

○

BENJAMIN L. NOLAN.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2807.]

The Committee on Invalid Pensions, to whom was referred Senate bill 2807, have examined the same and the evidence and report:

This bill proposes to pension at \$12 per month Benjamin L. Nolan, of Massachusetts. The Senate report says:

The Committee on Pensions, to whom was referred the bill (S. 2807) granting a pension to Benjamin L. Nolan, have examined the same and report:

A similar bill was introduced in the House of Representatives during the first session of the Fifty-fifth Congress, favorably reported, and passed. Your committee find the following facts, as submitted in said report:

Claimant served in Company D, Eighth Massachusetts Infantry, from September 11, 1862, to August 7, 1863; in Company A, Seventeenth Massachusetts Infantry, from January 14, 1864, to July 11, 1865; in Troop E, Fourth United States Cavalry, from November 11, 1865, to November 11, 1868, and in Troop G, Third United States Cavalry, from August 9, 1870, to August 9, 1875.

He filed an application under the general law, alleging disability resulting from a cut on the left hip. This claim was rejected May 4, 1893, on the ground that the wound was not incurred while in the line of duty.

The soldier also applied under the act of June 27, 1890, but was twice rejected on the ground of no ratable degree of disability.

The medical board which examined him last, October 6, 1895, gives the following rating: Wound of left hip, six-eighteenths; lumbago, four-eighteenths; eczema, eight-eighteenths; rheumatism, four-eighteenths; in all, twenty-two eighteenths. No vicious habits.

Your committee believe that the claimant is justly entitled to \$12 per month, and therefore respectfully recommend the passage of the bill.

It is quite certain that this soldier, with a long and faithful service and his serious disabilities, is entitled to \$12 per month.

The Senate bill is reported back with the recommendation that it pass when amended as follows:

In line 8, after the word "pension," insert "at the rate."

JAMES S. CHAPMAN.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

R E P O R T .

[To accompany H. R. 4274.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4274) to increase the pension of James S. Chapman, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of James S. Chapman, of Cedarville, Kans., who served from July 11, 1863, to February 15, 1864, in Company B, Fifth Battalion Ohio Volunteer Cavalry, and was honorably discharged. He filed and established a claim under the general law for injury to back and hips, and was pensioned therefor at \$4 per month from October 22, 1888. July 16, 1890, he filed a claim under the act of June 27, 1890, alleging injury to back and hips, piles, and loss of all fingers left hand, two middle fingers of right hand, and other two fingers useless from freezing. He was pensioned from date of filing at \$12 per month for injury to both hands from freezing, lumbago, sciatica, and disease of rectum. Piles is alleged as due to service and is shown in evidence from soon after discharge.

At his examination June 10, 1891, before the board at Osborne, Kans., he was rated four-eighteenths for injury to back and hips, two-eighteenths for piles, sixteen-eighteenths for one hand, and ten-eighteenths for the other; second grade (\$30) for all disabilities combined.

The description shows that from the left hand the second finger is off midway between second and third joints, and the other three between first and second joints. Stumps in fairly good condition. Right hand, third and fourth fingers off between first and second joints. Second and fifth distorted and stiffened, rendering them useless.

Evidence filed with this committee shows that in consequence of the disabilities described, he is wholly unable to do the manual labor necessary for the support of his family, and that he has no means of support. The loss of his fingers was due to freezing the same, a few years ago, through no fault of his own.

Claimant is about 53 years of age.

The bill is reported back, with the recommendation that it pass when amended as follows:

In line 7, after the word "Cavalry," insert the words "and pay him a pension."

CEDARVILLE, KANS., *November 15, 1897.*

DEAR SIR: I write you concerning a special pension claim of Comrade James S. Chapman, of Cedarville. He is entirely disabled from performing manual labor of any kind; has a large family to support, which comes hard on the older members of the family—three young men that should be laying something by for themselves, but will not, while they can earn anything, see the rest of the family suffer for any of the necessities of life. You know the conditions of the people of this country as well as I do. It is useless for me to say anything about the hardships they have endured. Comrade Chapman has a comfortable little home in Cedarville, but he bought it subject to a mortgage of \$125, and has only been able to keep the interest and taxes paid on it. Crops being short and prices low, he could pay nothing on the principal. The Railway Protective Order holds the mortgage, and they have been very good and lenient with him, but that does not clear his home of incumbrance.

He has a nice, quiet family to be so many of them together—only 10 children at home, or make that their home, and one married. Now, if you can do anything for him it will be doing one among the best things you could do for your constituents, and will be greatly appreciated by Comrade Chapman and family and all old comrades, as well as many other friends of both yours and his.

Hoping you will give this matter careful attention, I am yours for right and justice,

GARRETT GIBSON.

Hon. N. B. McCORMICK, M. C.

CEDARVILLE, KANS., *December 15, 1897.*

DEAR SIR: Upon the application for increase of pension of Mr. James Chapman, I wish to say that I have known James Chapman, personally, since 1882. During that year I met Mr. Chapman for the first time. Since that time I have had a continuous acquaintance with him; have had business transactions a part of that time daily; and I presume that on an average (since 1882) I have seen him once a day; personally know of his being treated for piles many, many different times by Dr. L. A. Golden, I myself being in business next door to Dr. L. A. Golden's office; and, I think it was in February, 1885, Mr. James Chapman came to Dr. Golden's office for treatment one of the most bitter cold days of the season, and after treatment Mr. Chapman started to go to his home, he being in company with a neighbor in a lumber wagon.

When Mr. Chapman came to the byroad that led to his residence he got out of the wagon to walk the distance to his house, between a quarter and a half mile, and on the way he stumbled and fell, and from weakness or some other cause was unable to rise and proceed on his journey, therefore he began calling for assistance, and before help reached him the fingers on both hands were so badly frozen that amputation was necessary in order to save the body of the hand. So Dr. Golden was called and amputated the fingers of each hand, some at the first joint, others at the second and third joints, which in a manner, incapacitates him from following his avocation—that of a farmer—and Comrade James Chapman is justly and honorably entitled to the pension coming under this roll. Mr. Chapman is not connected with any of my people, either by blood or marriage ties, and I make this statement of my own free will.

Respectfully, yours,

S. G. KING.

Hon. N. B. McCORMICK, M. C.,
Washington, D. C.

STATE OF KANSAS, *County of Smith, ss:*

In claim No. 504953, of James S. Chapman, of Company B of the Fifth Battalion of Ohio Volunteer Cavalry, personally appeared before the undersigned, duly authorized to administer oaths within and for said county, L. A. Golden, aged 39 years,

whose post-office is Kensington, county of Smith, State of Kansas, who, being duly sworn, states in relation to said claim as follows, to wit:

He is a regular practicing physician and a graduate of Rush Medical College, of Chicago, Ill.; he has been in the regular practice of medicine in Cedarville, Kans., and the vicinity thereabouts during the past seventeen years; on or about February 10, 1885, James S. Chapman came to the office of the affiant for treatment for piles and diarrhea contracted while he was in the Army and for which he was pensioned at the rate of \$4 per month at that time. Affiant further states that at that time the said Chapman was very weak on account of said diseases, and that on his way home, which was about 3 miles north of Cedarville, he had an epileptic fit, and while unconscious therefrom froze his hands in such a manner that I had to amputate his fingers. Affiant further states that on account of such disability the said Chapman is wholly unable to perform manual labor necessary for the support of his family and that he has no means of support; affiant further states that he verily believes said fit was caused by the diseases contracted in the Army. Affiant further states that he has been well and personally acquainted with said Chapman during the past sixteen years and knows him to be a sober, honest, and industrious man, and believes from his knowledge of the man that he was a good soldier and should receive more pension than he now receives or is able to obtain under the existing pension laws.

L. A. GOLDEN, M. D.

Sworn to and subscribed before me on the 22d day of February, 1897; and I hereby certify that the contents of this affidavit were fully made known to the affiant before signing, and I have no interest in this claim or its prosecution.

[SEAL.]

E. A. CORNELL,
Notary Public.

(Term expires February 6, 1898.)

STATE OF KANSAS, County of Smith, ss:

In claim No. 504953, of James S. Chapman, of Company B, of the Fifth Independent Battalion Cavalry, of Ohio Volunteers, personally appeared before the undersigned, duly authorized to administer oaths within and for said county, James S. Chapman, aged 53 years, whose post-office is Cedarville, county of Smith, State of Kansas, whom I certify to be credible, who, being duly sworn, states in relation to said claim as follows, to-wit:

He has no pensionable claim pending before the Pension Bureau, for the reason of an interval of about three years between discharge and allowance of claim under the general law; that I could not prove the existence of piles contracted while in service, because the physician who treated me for that period was dead, and all others by whom I could establish the claim were dead; consequently I was compelled to stop the prosecution of claim by that reason; therefore I have abandoned all hopes of further assistance from general pension laws.

JAMES CHAPMAN.

Sworn to and subscribed before me on the — day of —, 189—; and I hereby certify that the contents of this affidavit were fully made known to the affiant before signing, and I have no interest in this claim or its prosecution.

[SEAL.]

THOS. W. REA,
Notary Public.

(Term expires December 20, 1900.)

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MIRIAM V. KENNY.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4484.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4484) granting a pension to Miriam V. Kenny, widow of Samuel W. Kenny, submit the following report:

This bill proposes to pension, at \$30 per month, Miriam V. Kenny, of Dwight, Ill.

The evidence in this case discloses that Miriam V. Kenny was the lawful wife of Samuel W. Kenny, and has remained his widow since his death.

Samuel W. Kenny was employed and paid by and under direction of Gen. James S. Negley, commanding a division of the Army of the Cumberland, as a spy to seek information of the Confederate army, its position and intentions, and in January, 1863, he went into the Confederate lines, under the above authority and for the above purpose, and while on such duty was captured by the Confederates, tried, and convicted as a spy, and was hanged as a spy at Tullahoma, Tenn., February 13, 1863.

The evidence in this case is voluminous, and a considerable portion of it is from Confederate archives, including the record of the court-martial which tried and convicted Kenny. Letters from General Negley have also been considered by the committee. There is no controversy or contradiction in the above facts, nor that Kenny was from the first a Union man.

The claimant applied for a pension, which was rejected on the ground that Samuel W. Kenny was not in the military or naval service of the United States. She is now old and needy.

Your committee recommend that the bill be amended by inserting the words "and pay her a pension" after "Cumberland" in line 6; amend the title so it will read "A bill granting a pension to Miriam V. Kenny;" and that as amended the bill pass.

MARY ANN SULLIVAN.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6525.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6525) granting a pension to Mary Ann Sullivan, have examined the same and all the evidence and respectfully report:

This bill proposes to pension, at \$12 per month, Mary Ann Sullivan, of the city of New York, as dependent mother of James J. Sullivan.

James J. Sullivan served from May 26, 1862, to September 3, 1862, in Company K, Sixty-ninth Regiment New York Volunteers, and from July 6, 1864, to October 6, 1864, in Company B, Sixty-ninth Regiment New York Volunteers. He contracted disease in the service, and which was incurred in line of duty. These diseases, chronic diarrhea and kidney disease, undoubtedly caused the soldier's death.

This mother is unable to establish the facts to the complete satisfaction of the Bureau.

This mother is 85 years of age. She lost her husband twenty years ago, and has not remarried. She is very poor, and is, in part and almost wholly, supported by John A. Rawlins Post, No. 80, G. A. R., city of New York.

The case is very meritorious. The bill is therefore reported back with the recommendation that it pass.

JOHN A. RAWLINS POST, No. 80, GRAND ARMY OF THE REPUBLIC,
New York, November 24, 1897.

DEAR SIR AND COMRADE: I have the honor to call to your attention pension bill H. R. 3621, introduced by Hon. William Sulzer, of our city. The old lady mentioned in the bill is the mother of a deceased comrade of our post; she has passed the four-score mark, and in the event of her being granted a pension, our comrades will consider themselves under lasting obligations to you.

With great respect, sincerely yours,

JOHN E. KIRWIN, *Adjutant.*

Hon. GEORGE W. RAY,
Representative in Congress.

123 AVENUE D, NEW YORK, *January 27, 1898.*

MY DEAR COLONEL: Hon. William Sulzer introduced two bills in the House for my relief, H. R. 3621 and H. R. 6525, which were referred to the Committee on Invalid Pensions.

My son, James Sullivan, enrolled May 26, 1862, in Company K, Sixty-ninth Regiment New York Volunteers (Militia), Capt. John H. Nugent, and was discharged September 3, 1862.

He also enrolled July 6, 1864, in Company B, Sixty-ninth Regiment New York Volunteers (Militia), and was discharged October 6, 1864, Capt. Kearns Watson.

I have both of his discharges, and will forward them to you if you wish to see them.

I lived with my son, James J. Sullivan, for twenty years before his death in October, 1886; he was my only support, and he died unmarried.

I am 85 years of age, and, up to two years ago, could by work support myself; during the past two years I have depended upon John A. Rawlins Post No. 80, Department of New York, for money to keep me out of the almshouse.

The post has forwarded to me every month \$10, which provides me with all my wants; but some of the members of the post tell me that the funds of the post are running very low.

As you know, under the present pension law, a mother of a soldier can not be placed upon the pension roll unless it can be proven by two witnesses "who can testify to the time and place the deceased soldier contracted the disease which was the cause of his death."

Such witnesses I can not find, and a special act of Congress is my only hope.

I think that under any pension law a mother should have just as good a claim as a widow of a soldier.

With bill H. R. 3621 I forwarded two affidavits of two gentlemen who have been acquainted with myself and with my son for over forty years, and if any more proof is wanted in this claim by you I will try and furnish it for you.

My dear Colonel, as you are chairman of the Committee on Invalid Pensions, you would do me a great favor to have the bill investigated and reported to the House.

Yours, respectfully,

MARY A. SULLIVAN.

Hon. GEORGE W. RAY,
Member of Congress.

HEADQUARTERS JOHN A. RAWLINS POST, No. 80,
New York, January 10, 1898.

DEAR SIR AND COMRADE: My attention has been called to pension bill No. 3621, which has been introduced in the House by the Hon. William Sulzer, for the relief of Mrs. Mary A. Sullivan, mother of James J. Sullivan, who served in Company B, Sixty-ninth Regiment New York Volunteer Infantry.

I desire to say to you that this old lady is about 86 years of age, and that John A. Rawlins Post, No. 80, has contributed \$10 per month for her support during the past three years, which amount has kept her out of the almshouse. I mention this to show you that she is a worthy and respectable old lady. We don't know how long the post will be able to assist her, as the funds are running low.

James J. Sullivan, her son, was a member of this post during life; he lived and supported his mother and died unmarried, and no widow will apply for a pension in his case.

You know that a mother of a soldier can not be placed on the pension roll, unless it can be proven by two witnesses "who can testify to the time and place the deceased soldier contracted the disease which was the cause of his death." Such witnesses can not be found in this case, and a special act of Congress is the only remedy for this poor and worthy old woman.

My dear comrade, as chairman of the Invalid Pensions Committee of the House, if you report this bill you will confer a great favor upon John A. Rawlins Post No. 80, Department of New York.

Yours in F., C. and L., very respectfully,

JAMES J. BUTLER,
*Commander John A. Rawlins Post No. 80, Department of New York,
Chrystie Place, Morris Heights.*

Hon. GEORGE W. RAY,
Member of Congress, Washington, D. C.

RACHEL J. COMER.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5054.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5054) granting a pension to Rachel J. Comer, have examined the same and all the evidence and respectfully report:

This bill as amended proposes to pension at \$8 per month Rachel J. Comer, of Avoca, Iowa, as widow of Thomas Comer.

Thomas Comer served from July 17, 1862, to October 11, 1862, in Company A, Seventy-second Indiana Infantry Volunteers, when he was discharged on account of sore eyes. He died May 5, 1866. The widow has applied for pension under the general law, and her application was denied because soldier's death was not from cause of service origin. Her application under the act of June 27, 1890, was denied because the soldier served less than ninety days. The Pension Bureau was correct in both cases.

However, as the soldier served nearly ninety days and was honorably discharged, and as the disease for which he was discharged, although not of service origin, developed during his service to such an extent as to disable him, and as the evidence shows the widow to be aged and poor, your committee report the bill back with the recommendation that it pass when amended as follows:

In line 7, after "Infantry," insert "and pay her a pension."

In line 7 strike out "twelve" and insert "eight."

ADDIE L. BALLOU.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8724.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8724) granting a pension to Addie L. Ballou, have examined the same and all the evidence and respectfully report:

This bill proposes to pension at \$12 per month Addie L. Ballou, of Room 62, 1170 Market street, San Francisco, Cal.

Claimant is shown by positive evidence of officers, surgeons, and privates, who have personal knowledge of the facts, to have started out with the Thirty-second Wisconsin Volunteers as a nurse in the fall of 1862 and to have served until about August or September, 1863, considerably over six months at least, and apparently nearly a year.

The service from December 2, 1862, to February 19, 1863, appears to be recognized by the War Department as having been by proper authority, as she was in a general hospital during that time and she is shown to have been paid for that service, but the remainder of her service is not so recognized by the War Department. It was, however, as valuable and meritorious, and Mrs. Ballou is spoken of in the highest terms by the officers who testify to her service with the regiment as well as in the general hospital.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 7, after "pension," insert "at the rate."

THE PROTESTANT EPISCOPAL CHURCH, DIOCESE OF
WASHINGTON.

APRIL 7, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. MUDD, from the Committee on the District of Columbia, submitted
the following

REPORT.

[To accompany H. R. 8972.]

The Committee on the District of Columbia, to whom was referred House bill No. 8922, beg leave to report the same to the House with the recommendation that it do pass.

The proposed legislation has the approval of the Commissioners of the District of Columbia, as shown by their letter herewith attached, which your committee incorporates as a part of its report.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, March 18, 1898.

SIR: The Commissioners of the District of Columbia recommend favorable action upon House bill No. 8972, to amend section 2 of an act entitled "An act to incorporate the convention of the Protestant Episcopal Church of the diocese of Washington," which was referred to them at your instance for examination and report.

The object of this bill is to remove any doubt there may be as to the right of the body corporate under said act to take and hold real estate under the words "grants and devises," for the purpose of an Episcopal residence, diocesan house, church, colleges, church or parish schools, etc. There has been some question whether under section 2 of the act of March 16, 1898, the corporation may take real estate by deed or will.

Very respectfully,

JOHN W. ROSS,
President Board of Commissioners, District of Columbia.

Hon. JOSEPH W. BABCOCK,
*Chairman Committee on the District of Columbia,
House of Representatives, Washington, D. C.*

BRIDGE ACROSS NIAGARA RIVER.

APRIL 7, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. SHERMAN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 1073.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1073) to provide for the construction of a bridge across Niagara River, submit the following report:

By chapter 482, laws of New York for 1892, as amended by chapter 506 of the laws of 1893, certain persons are authorized, under the name of the Niagara River Tunnel Company, to tunnel or bridge the Niagara River from some point of the east bank across Grand Island to the west bank.

This bill simply proposes to give the company the right to bridge Niagara River, being waters under the control of Congress.

Grand Island forms one of the towns of Erie County, its upper or southern end being on a line with the lower or northern end of the city of Buffalo. It is 14 miles long, and from 1 to 6 miles wide, containing 17,381 acres. It is about 4 miles from the heart of the city of Buffalo, a summer resort, containing hotels, clubhouses, and cottages. During the outing season more than 250,000 people visit this resort. (These figures are obtained from the Bureau of Navigation, Treasury Department.)

The island also offers opportunities for the building of grain elevators, warehouses, iron and coal docks, lumber yards, stock yards, and slips, the deep water affording 25 to 30 miles of dockage front, while no artificial protection to shipping against storms upon the lake is needed.

The bridge which it is proposed to build, connecting Grand Island with the mainland, will provide, as shown by the provisions of this bill, ample accommodation for railroads, street cars, vehicles of all kinds, and foot passengers, so that the island will practically become a part of the mainland and closely connected with the city of Buffalo.

The average width of the east branch of the Niagara River is 1,800 feet, with a channel 26 to 27 feet deep, extending to within 100 feet of the Grand Island shore. The west branch averages 2,200 feet, with a depth of 24 or 25 feet, except upon two reefs, where it is 15 or 16

feet deep. Across these two branches it is proposed to erect a bridge at a height above the water to be fixed by the Secretary of War, with two draws in the part of the bridge over each channel, making four draws in all, each 200 feet wide in the clear. At this point the current of the river is about $1\frac{1}{2}$ miles per hour.

Three miles south of the site of the proposed bridge is a railroad bridge known as the International Bridge, crossing from the American to the Canadian shore and connecting the city of Buffalo directly with the village of Victoria. It is raised 27 feet above the water, with a single available draw 160 feet wide. At this point the current of the river is from 6 to 9 miles an hour.

Basing its judgment upon a personal inspection of the site of the proposed bridge and upon the opinion of Maj. Thomas W. Symons, of the United States Engineer Corps, who has been stationed at Buffalo for several years, and his predecessor, Major Ruffner, both of whom reported favorably upon the project, which recommendations are approved by the War Department, and a consideration of the needs therefor and of the requirements of navigation, the committee recommends the passage of the bill as amended.



SUSAN E. FIELDER.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7506.]

The Committee on Pensions, to whom was referred the bill (H. R. 7506) granting a pension to Susan E. Fielder, have considered the same and respectfully report as follows:

The claimant is the widow of Alvin A. Fielder, who is alleged to have served as a private soldier for the period of about three months in Capt. William H. House's company of Alabama Volunteers in the Creek Indian war of 1836.

The soldier filed an application in his lifetime under the Indian war act of July 27, 1892, and furnished in support thereof the testimony of John W. Trammell and John M. Phillips, who swear that they served in the same company with him, messing and drawing rations together, and that all three came home together after discharge.

These witnesses explain that Fielder was not mustered into the service, for the reason that he was a minor, about 18 years old, and ran away from home to serve. The names of the witnesses, Phillips and Trammell, are borne on the rolls of Captain House's company, on file at the Treasury Department, but Fielder's name could not be found, and therefore his application for pension was rejected. He died September 26, 1893, and his widow, the beneficiary under the bill, filed a claim at the Pension Bureau, which was also rejected on the ground of no record of service.

The soldier was granted a bounty land warrant under the act of 1855 because of the above service, and the testimony before your committee is clear and convincing that he participated, as alleged, as a soldier in the Indian war of 1836.

The claimant's legal widowhood is fully established by the testimony. She married the soldier in June, 1838, and she is now about 77 years old, a cripple from a broken hip, and in dependent circumstances.

The passage of the bill is recommended with the following amendments:

Change the initial "R" in the soldier's name to "A."

In line 8, strike out "Houser" and substitute therefor the name "House."

In line 10, strike out the word "thirty" and insert in lieu thereof the word "eight."

PHILIP F. CASTLEMAN.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRODE, from the Committee on Pensions, submitted the following

REPORT.

[To accompany S. 1155.]

The Committee on Pensions, to whom was referred the bill (S. 1155) granting a pension to P. F. Castleman, have considered the same and respectfully report as follows:

The bill is accompanied by Senate report No. 327, first session, and the following facts are quoted therefrom:

From the records on file in the Pension Bureau it appears that Philip F. Castleman was a quartermaster's agent during the Oregon and Washington Indian war of 1855 and 1856. He was also commissary of subsistence of the Oregon Mounted Volunteers during the same war. For the services above named Castleman's claims have been filed and paid by the Government. The beneficiary named in the bill made application for pension December 10, 1866, declaring that while in the service of the United States and in the line of duty he received a gunshot wound as follows: That on the 2d of December, 1855, while defending himself and acting with the troops at Olgle Creek, in Douglas County, Oreg., he was shot in the breast, the ball passing through his side, making a bad wound, and thereby incapacitating him from obtaining subsistence from manual labor for life. The claimant was examined by an examining surgeon of the Pension Bureau at Portland, Oreg., January 10, 1867, who made the following report:

"In my opinion, the said P. F. Castleman is one-half incapacitated for obtaining his subsistence by manual labor. Judging from his present condition, and from the evidence before me, it is my belief that the said disability (gunshot wound) accrued in the service aforesaid in the line of duty. His disability is for life. A more particular description of the applicant's condition is subjoined: The ball struck Castleman near the lower end of the sternum, passing obliquely downward and outward to the right side between the muscles about 12 inches. Owing to inflammation, adhesions have taken place between the liver and abdominal parietes."

Joseph W. Drew, late quartermaster-general, Oregon Territory, certified, on January 29, 1867, to the truth of the declarations made by the claimant in regard to his service and incurrence of said disability, and the allegations are further substantiated by an affidavit of M. M. McCowen, late commissary-general of the Oregon Volunteers during the same war, dated December 13, 1866. The claim was rejected in the Pension Bureau for the reason that the claimant at the time of his receiving the gunshot wound held no military appointment within the meaning of the pension laws.

The affidavits of the following-named persons have recently been filed with your committee in support of the declarations made by the claimant as to the incurrence of the gunshot wound, each of the affiants having been comrades of the claimant and

present at the time he was wounded: Dr. Sataehiel Hamelton, Roseburg, Oreg.; Dr. Andrew W. Patterson, Eugene, Oreg.; James D. Burnett, Roseburg, Oreg.; Jephtha Green, Roseburg, Oreg.; Burbon Brockway, Roseburg, Oreg.; John Kelly, Roseburg, Oreg.; John F. Miller, Marion County, Oreg.; Isaac Bailey, Roseburg, Oreg.

The claimant is now nearly 70 years of age, and declares that the wound received by him over forty years ago has troubled him ever since, and at times becomes very painful, necessitating the constant use of a support to enable him to walk.

The proof is overwhelming and complete that Mr. Castleman received the alleged wound in the line of his duty while an employee of the quartermaster's department, and, there being numerous precedents for pensioning civilian employees of the Army for wounds actually received in battle, the passage of the bill is respectfully recommended, amended, however, as follows:

Change the claimant's name in the title and in the body of the bill to "Philip F. Castleman."

Strike out the words "acting assistant quartermaster," in line 6, and substitute therefor the words "quartermaster's agent," that being his designation on the records of the Treasury Department.



WILLIAM A. BECKFORD.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 489.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 489) granting an increase of pension to William A. Beckford, have examined the same and report:

This bill proposes to increase from \$30 to \$50 per month the pension of William A. Beckford, of Bristol, N. H.

The soldier suffers from a gunshot wound, received in battle, through the shoulder and breast, which frequently breaks out and requires surgical operations. He is poor and has a helpless wife to support.

The Senate report, which is correct and contains much of the evidence, is as follows:

The Committee on Pensions, to whom was referred the bill (S. 489) granting an increase of pension to William A. Beckford, have examined the same and report:

A similar bill passed the Senate during the first session of the Fifty-fourth Congress, and was reported favorably by the House. Your committee recommend the passage of the bill, adopting the said Senate report, which is as follows:

The claimant under this bill received a severe gunshot wound through the breast and shoulder at the battle of Moreauville, La., on the 17th day of May, 1864, perforating the lung and shattering the shoulder joint. The disability has continued in a severe form ever since, disease of the bone existing. He is pensioned at \$30 per month, and applied for increase on the ground that he required the periodical attention of another person, but the claim for increase was rejected. The following affidavits, submitted to your committee, present all the essential facts in the case:

This may certify that I have been acquainted with Wm. A. Beckford, of Bristol, N. H., for the past twenty-five years; that during the past five years or more I have attended him professionally as often as once each year for abscesses which collect at the seat of his old wound on the back of his shoulder; that each and every time I have opened it, and that it has discharged great quantities of foul-smelling pus. Said wound incapacitates him from performing manual labor; said Beckford is oftentimes confined to his bed and requires special attendance for some weeks at a time.

I further say that I wrote this affidavit myself, and that in writing it I was not assisted by the written, printed, or oral recital of any other person.

GEO. H. CALLEY, M. D.

BRISTOL, N. H.

MARCH 9, 1896.

STATE OF NEW HAMPSHIRE, *Grafton, ss.*

Sworn to before me this day by the above-named affiant; and I certify that I am in nowise interested in said case, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

CHAS. W. FLING, *Notary Public.*

I, Charles H. Proctor, of Bristol, in the county of Grafton and State of New Hampshire, certify that I am postmaster at said Bristol, and that I have known William A. Beckford a great many years. I know he is suffering from a gunshot wound

through the right breast and shoulder that requires him to undergo surgical operations, and at these times he has to have special attention, as it confines him to bed for several weeks. I have called to see him when he was very bad off, and I understood had to be kept under the influence of morphine.

I further certify that I have no interest in the case whatever.

CHARLES H. PROCTOR.

MARCH 9, 1896.

STATE OF NEW HAMPSHIRE, *Grafton, ss:*

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant. I further certify that I am in no wise interested in said case, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

CHAS. W. FLING, *Notary Public.*

STATE OF NEW HAMPSHIRE, *County of Grafton, ss:*

In the matter of William A. Beckford.

On this 9th day of March, A. D. 1896, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, William George, aged 56 years, a resident of Bristol, in the county of Grafton and State of New Hampshire, whose post-office address is Bristol, N. H., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

I have been acquainted with William A. Beckford from twenty to twenty-three years, and during all that time he has had more or less trouble with his shoulder, owing to a gunshot wound. Frequently during that time he has had to submit to several surgical operations. I have seen the wound opened when there would be more than a half pint of very offensive pus, and discharge more or less for weeks afterwards.

I have assisted in taking care of him, days and nights, and have known of his being compelled to employ skilled nurses; the amount that he paid the nurses I do not know except from hearsay. I understood he had to pay a large sum.

At the time he has these surgical operations he suffers intense pain and requires special attention for weeks at a time.

I further say that I did not write this statement myself, but it was made from my declaration to Roscoe C. Sanborn, who then reduced the testimony to writing, and that it was all written in my presence and only from my statement then made, and in making the same I did not use and was not aided or prompted by any written or printed statement, or recital of any other person, and I further say I have no interest in the case of a personal nature.

WILLIAM GEORGE.

MARCH 9, 1896.

STATE OF NEW HAMPSHIRE, *Grafton, ss:*

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant. I further certify that I am in no wise interested in said case, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

CHAS. W. FLING, *Notary Public.*

STATE OF NEW HAMPSHIRE, *County of Grafton, ss:*

In the matter of William A. Beckford.

On this 9th day of March, A. D. 1896, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, Ezekiel Follansbee, aged 76 years, a resident of Bristol, in the county of Grafton and State of New Hampshire, whose post-office address is Bristol, N. H., well known to me to be reputable and entitled to credit, and who, being duly sworn, declared in relation to the aforesaid case as follows:

I have known William A. Beckford about thirty years. I know he has got a very bad shoulder, caused by a gunshot, and there is a loose piece of bone in the shoulder. The wound is of such a character that it prevents him from performing manual labor. I have known of his having his shoulder cut open many times. I remember one time when he was unable to get home and had to stop at a house in Franklin, N. H., for several weeks. I think the party's name was Nowell. They showed me at that time a pint bowl two-thirds full of nasty pus which came from the wound.

I have known him to be confined to his bed several times, and to have similar operations. It seems to me he has suffered enough to kill an ordinary man. At these times he suffered terribly, and I don't see how he has lived as long as he has. When he has these operations it is necessary that he have extra care, and of the very best. I further say that I did not write this statement myself, but it was made from my declaration to Roscoe C. Sanborn, who then reduced the testimony to writing, and that it was all written in my presence and only from my statement then made, and in making the same I did not use and was not aided or prompted by any written or printed statement or recital of any other person; and I further say I have no interest in the case of a personal nature.

EZEKIEL FOLLANSBEE.

MARCH 9, 1896.

STATE OF NEW HAMPSHIRE, *Grafton*, ss:

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant. I further certify that I am in nowise interested in said case, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

CHAS. W. FLING, *Notary Public*.

STATE OF NEW HAMPSHIRE, *County of Grafton*, ss:

In the matter of William A. Beckford.

On this 9th day of March, A. D. 1896, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, Fred S. Fall, aged 39 years, a resident of Bristol, in the county of Grafton and State of New Hampshire, whose post-office address is Bristol, N. H., well known to me to be reputable and entitled to credit, and who, being duly sworn, declared in relation to the aforesaid case as follows:

I have known William A. Beckford some fifteen years, and during the last twelve or thirteen years I have known him well, and of his having continuous trouble with his shoulder. I can not tell how many operations he has had made upon his shoulder, but know of several, and have been present at two of the operations. The operations become necessary on account of a gunshot wound which he received in the Army. At these operations the wound discharges large quantities of nasty, putrid pus.

I have assisted the surgeon and helped dress the wound a great many times. At these times Captain Beckford suffers intense pain, and it becomes necessary to inject morphine.

He is confined to his bed sometimes for several weeks together, and requires every attention. I further say that I did not write this statement myself, but it was made from my declaration to Roscoe C. Sanborn, who then reduced the testimony to writing, and that it was all written in my presence, and only from my statement then made; and in making the same I didn't use, and was not aided or prompted by any written or printed statement, or recital, of any other person; and I further say I have no interest in the case of a personal nature.

FRED S. FALL.

MARCH 9, 1896.

STATE OF NEW HAMPSHIRE, *Grafton*, ss:

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant. I further certify that I am in no wise interested in said case, and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

CHAS. W. FLING, *Notary Public*.

The evidence seems to conclusively show that soldier is entitled to increase to the rate established by the act of July 14, 1892, to wit, \$50 per month, which is the amount named in the bill. The bill is therefore reported back favorably, with a recommendation that it pass.

The case is a meritorious one, and the Senate bill is therefore reported back with the recommendation that it pass when amended as follows:

After the word "Infantry," in line 7, insert "and pay him a pension."

ALONZO B. CHATFIELD.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 4003.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 4003) to increase the pension of Alonzo B. Chatfield, have examined the same and respectfully report:

The act in effect increases the pension of the claimant \$6 per month.

The facts are stated in the Senate report (No. 723), which is as follows:

Your Committee on Pensions, having had under consideration Senate bill 4003, beg leave to report the same favorably, with the recommendation that it pass.

When the general law, approved August 4, 1886, advanced the rate of pension for those who had lost limbs, the Commissioner of Pensions did not give the increase to said Chatfield, and therefore he has not received the full benefit of his act.

The following is taken from the committee's report, which was submitted at the time the special act was reported, and, in referring to Mr. Chatfield's disability, they say:

"There is no doubt about the fact. The fact is that his arm was amputated just below the elbow, and so close to it that the remaining portion is of no use or advantage whatever. The committee are of the opinion that he should receive a pension equivalent to that given under the law to persons having lost an arm at or above the elbow, and they therefore recommend the passage of the bill."

The act was approved June 3, 1884.

Opinion differs whether the Commissioner ought not to have given the increased rate to Mr. Chatfield without the necessity of additional legislation, but he has not, and therefore this relief is sought.

The said pensioner enjoyed the benefit of his special act until the general law increased the rate, on August 4, 1886, but since that time he has not. Although receiving his pension on the certificate issued under his act, the rate is no more than that given for the loss of a hand or equivalent disability in the forearm, whereas his disability, as is seen by the former committee's report, is equal to a loss of the arm at or above the elbow, and entitled to the same rate of pension as is given for such disability.

The construction asked in the bill should be given, for then only will the pensioner receive the full benefit of the act itself. It is admitted his disability is the same as those in the class mentioned. The special act was granted on this fact, and the intention of making its benefits permanent is unquestioned.

The general laws make many disabilities equivalent when there is great difference. For instance, a resection of the forearm with the hand left uninjured entitles the pensioner to the same rate given for the loss of his arm below the elbow. It is

readily seen that the hand would be of great service. But in the case of Mr. Chatfield he has no advantage, but barred under the general law, technically, and obliged to accept a rate which is \$6 less than his disability entitles him to. It was therefore considered just to pass the special act, and a proper construction of that act is now asked that the full benefit may be realized by the pensioner.

The following is a copy of the act approved June 3, 1884, for the relief of Alonzo B. Chatfield:

AN ACT to increase the pension of Alonzo B. Chatfield.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the pension of Alonzo B. Chatfield, late of Company B, Thirty-third Regiment of Illinois Volunteer Infantry, be rerated and included as equal disability with that class of pensioners who have lost an arm at or above the elbow, under an act of Congress entitled "An act to amend the pension laws by increasing the pensions of soldiers and sailors who have lost an arm or leg in the service, and for other purposes," approved March third, eighteen hundred and eighty-three, such increase to date from the passage of this act.

Approved, June 3, 1884.

The Senate bill is concurred in and its passage recommended.

○

MARY A. BENJAMIN.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 862.]

The Committee on Invalid Pensions, to whom was referred the bills (S. 862 and H. R. 7590) granting a pension to Mary A. Benjamin, have examined the same and the evidence and report:

This bill proposes to pension at \$12 per month Mary A. Benjamin, of Cheyenne, Wyo., as widow of Horatio H. Benjamin.

The Senate report sets forth the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 862) granting a pension to Mary A. Benjamin, have examined the same and report:

The petitioner is the widow of Horatio H. Benjamin, captain Company B, One hundred and thirteenth Regiment Ohio Volunteers, previously colonel, United States Volunteers, and was successively promoted to the rank of first lieutenant, captain, major, lieutenant-colonel, and colonel of his regiment for meritorious services, and was mustered out of the service at Camp Chase, Ohio, September 26, 1865, as a major. The said Horatio H. Benjamin, while captain of Company B, One hundred and thirteenth Regiment Ohio Volunteers, received a gunshot wound in the left hip at the battle of Chickamauga, on the 20th day of September, 1863, while in action and in the line of duty, which wound completely disabled him for active duty, and from the effects of which he was sent to his home and was confined to his room for about two months, after which date and until April, 1864, he served as a recruiting officer at Urbana and Columbus, Ohio, under orders.

He resigned his commission as captain in August, 1864, on account of his wounds, but in February, 1865, he again reentered the service, and was mustered in as major of the One hundred and eighty-fifth Regiment Ohio Volunteers, and was mustered out with his regiment, with the rank of major, in September, 1865. In April, 1865, while in the line of his duty, near Mount Sterling, Ky., while leading a charge on guerrillas and when his horse was jumping a fence, he was thrown on the pommel of his saddle and ruptured on the right side.

The evidence is that this rupture was incurable, and he suffered greatly from the effects of it all his life. He made application and was granted a pension in 1872 of \$19 per month, commencing from September 27, 1865, which pension was afterwards increased to \$22.50 per month, which amount he received up to the time of his death, which occurred September 29, 1889. There is also evidence to the effect that said Horatio H. Benjamin was afflicted with chronic diarrhea, contracted during his service in the Army.

The medical evidence is to the effect that the said Horatio H. Benjamin suffered continually from these various disabilities, viz, the gunshot wound in the hip;

inguinal hernia, the result of the rupture, and chronic diarrhea, and as the result of said disabilities he became of unsound mind, and from 1887 to the time of his death, in 1889, he was confined in the Oakwood Springs Sanitarium (Wisconsin), requiring constant attendance.

His widow, Mary A. Benjamin, the petitioner, filed her application for widow's pension November 4, 1889, claiming that the aforesaid disabilities were a contributing cause of her husband's death, and in this claim she is supported by the testimony of the physicians who attended her husband before he entered the Oakwood Springs Sanitarium; also of Dr. O. A. King, who was Benjamin's physician while in the sanitarium; also the friends and neighbors of Benjamin who knew him personally before and since he entered the service of the United States.

The claim for widow's pension was rejected by the Bureau of Pensions on the ground of soldier's death prior to medical examination by United States board of examining surgeons since former action, and there being no obtainable record or medical or other material evidence necessary to establish said disabilities as of service origin, causing the alleged insanity, which could be accepted.

As bearing directly upon the main point involved in this case, viz, whether the cause of death of Horatio H. Benjamin was due to a pensionable cause, the following copy of the statement of Dr. Louis R. Head, superintendent and attending physician of the Oakwood Springs Sanitarium, where Major Benjamin was confined, is herewith attached:

"Dr. Louis R. Head, appearing before me, a notary public in and for the county of Walworth and State of Wisconsin, and being duly sworn, says that he is the medical superintendent of Oakwood Retreat, an institution conducted for the care and treatment of the insane at Lake Geneva, Wis., and as such has been attending physician of Col. H. H. Benjamin, of Cheyenne, Wyo., who is suffering from general paralysis of the insane, and is confined for treatment and care in the above-named institution; further, that it is probable that disease contracted and wounds received during his service in the war of the rebellion were potent causes of the malady with which he is now suffering, as he (Head) is of the opinion that any exhausting disease, like chronic diarrhea, and suffering from wounds, sufficient to cause habitual insomnia, may be considered as largely causative of paresis.

"LOUIS R. HEAD.

"Sworn and subscribed to before me September 4, 1889.

"CHAS. F. CASE, *Notary Public.*"

In view of the fact that this soldier was honorably discharged on account of a serious disability, and yet reentered the service, serving faithfully until the close of the war, incurring additional disabilities thereby, your committee believe it to be a case of exceptional merit. It seems to be proven to the satisfaction of your committee that the soldier's insanity was brought on by the pain and sufferings caused by wounds and disease incurred in the service.

Your committee therefore recommend that the bill be amended by striking out the word "fifty" where it occurs in the bill and inserting in lieu thereof the word "twelve," and that as so amended the bill do pass.

Much evidence and many papers have been filed and examined, and after careful consideration your committee concur in the result reached by the Senate and report the bill back with the recommendation that it pass.

WILLIAM BRITTON.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. Cox, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 5740.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5740) to remove the charge of desertion against William Britton, have had the same under consideration and report:

The said William Britton was enrolled at Philadelphia, Pa., September 16, 1861. He was at that time a boy, 16 years old. He enlisted as a drummer boy in Company A, Fifty-eighth Pennsylvania Volunteers, to serve three years, but instead of being made drummer boy was put into the ranks and made private.

The military records show that he served faithfully in said company until January 1, 1864, when he reenlisted as a veteran volunteer and served until August, 1864, when he received a furlough, and did not thereafter return to his regiment. The evidence in this case, shown by the record furnished the committee by the Department, in which are cited affidavits of comrades and others, shows that at that time he was in feeble health, spitting blood; that he was apparently suffering from consumption, and by the advice of friends, as a forlorn hope to save his life, went to California, where his mother lived, who took care of him; that in the course of a year he did recover his health in a great measure.

In view of all the evidence presented in this case, his service of three years, and his inability to do military duty, the committee recommend the passage of the bill.

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CORYDON WINKLER.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 987.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 987) to correct the military record of Corydon Winkler, late private, Eighth Company, First Battalion, First Ohio Sharpshooters, beg leave to submit the following report and recommend that said bill do pass with the following amendment:

After the word "sixty-four," in line 9, add the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

It is shown by the records of the War Department that Corydon Winkler was mustered into the service on November 10, 1863, as a private in the Eighth Independent Company, Ohio Volunteer Sharpshooters, and that on the 31st day of December following, he was detailed as chief sawyer in the steam sawmill in Bridgeport, Ala.

The muster-out roll of company, dated July 19, 1865, reports him as "deserted between January and May 1864, from Bridgeport, Ala., where he had been detailed as a sawyer."

The above is all that is shown by the record, but the numerous affidavits filed with the committee and with the Department of War indicate clearly the circumstances under which the soldier left the service. Soon after Winkler was detailed on duty in the sawmill his company was ordered to Chattanooga, and he was left in Bridgeport in charge of said mill. He remained in charge of the mill at Bridgeport until some time in the month of April, 1864, when he was completely disabled by having one of his legs crushed between two saw logs. The injury which he thus received was such as to completely disable and disqualify him for military duty or for duty in the sawmill. He was not an educated man, and by said injury was rendered practically incapable of performing work of any kind.

As soon as the soldier was able to travel, at his own request he was sent to Nashville, Tenn., and thence to his home and his family in Ohio. The many affidavits referred to show that ever since his injury was first received his leg has been entirely stiff at the knee, and that he could not have rendered any service to the Government if he had remained at Bridgeport longer.

The evidence satisfies the committee beyond all reasonable doubt that it was not the intention of Corydon Winkler to desert the service of the United States, and that he went home with the full knowledge and assent of the officer in charge of said sawmill, himself and all others believing that his injuries were such that he could no longer remain in the service in any useful capacity whatever.



W. G. NEELEY.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 1213.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1213) for the removal of the charge of desertion and for granting an honorable discharge to W. G. Neeley, having considered the same, recommend that the same pass with the following amendment:

After the word "Volunteers," in line 7, add the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

W. G. Neeley was enrolled and mustered into service April 15, 1865, as a private in Company I, Fifth United States Volunteer Infantry, and served faithfully up to October 1, 1865, when he left his company at Fort Riley, Kans., and did not return to his command or notify it of his whereabouts, according to the records of the War Department. Mr. W. G. Neeley testified before the Department that he left his company February 27, 1866, on a leave of absence, expecting to return in a few days; that he was sick, and before he was able to return the company was ordered to Salt Lake City, Utah.

Several witnesses also testified before the Department that W. G. Neeley was unable to go with his command after his leaving the company, October 1, 1865, up to the time his company was mustered out of service, November 13, 1866.

Your committee is convinced that his absence was not voluntary, but because of illness, and that the bill should be passed.

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ALPHONZO O. DRAKE.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8286.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8286) granting an increase of pension to Alphonzo O. Drake, have examined the same and most respectfully report:

This bill proposes to increase from \$12 to \$20 the pension of Alphonzo O. Drake, of Apponaug, R. I. He served in Company E, Second Rhode Island Volunteers, from August 15, 1864, to June 26, 1865, when he was honorably discharged. He is shown by the records to have been treated during the service for scurvy, erysipelas, epilepsy, and chronic ulcer of right leg. He enlisted on the 1st of April, 1867, in Company I, Thirteenth United States Infantry, and was discharged May 15, 1868, on surgeon's certificate of disability, on account of epilepsy. He again enlisted December 7, 1869, in Battery A, Fifth United States Artillery, and was again discharged April 1, 1870, on surgeon's certificate of disability, on account of repeated attacks of epilepsy, "cause unknown; disease doubtless existed before enlistment."

He filed a claim under the general law January 26, 1883, alleging a fall from a train, injuring his head and resulting in softening of the brain. That claim was rejected April 21, 1885, on the ground that the epilepsy, which is alleged to have resulted from an injury to head received in the service, existed prior to claimant's enlistment, as shown by special examination.

Claimant had been in the service nine months before the record shows that he had epilepsy. A very large number of witnesses who knew him before enlistment testify that they never knew or heard of his having epilepsy before he entered the service. It is shown by the testimony of one or two witnesses that at one time, shortly before entering the service, he fell in a church hall, during an entertainment, in what is believed by some witnesses to have been an epileptic fit. His mother says that it was a chill; that he had been out in the cold, became thoroughly chilled, and went into a very warm room, fainted, became

unconscious, and was taken home, and after arriving home he shook fearfully.

A good deal of evidence has been filed with this committee to the effect that soldier never had epilepsy or fits or spasms of that nature before his first enlistment. The record shows that he had them during each one of his three terms of service, and inasmuch as he was in the service nine months before he was treated for epilepsy it would not be improper to accept epilepsy as due to service, and to pension him therefor.

The degree of his disability from epilepsy is not well shown. It is stated by one board of surgeons in 1890 that his disability from epilepsy is total, while in 1892 he is rated only twelve-eighteenths.

His disabilities all together, and all of service origin, clearly entitle this soldier to a pension of \$20 per month. The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 8, after the word "pension," insert the words "at the rate."



ADELAIDE H. LAMBERTSON.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3254.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 3254) granting a pension to Adelaide H. Lambertson, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to place the name of Adelaide H. Lambertson, of Goshen, Conn., on the pension roll, subject to the provisions and limitations of the pension laws, but which will carry \$12.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 3254) granting a pension to Adelaide H. Lambertson, have examined the same and report:

This bill is in behalf of the widow of a soldier who remarried and became widowed a second time. Your committee exercises great caution in this class of cases, having adopted the following rule for its guidance:

"This committee will not give consideration to any bill which proposes to restore to the roll the name of a widow of a soldier whose pension was forfeited by remarriage unless she was the wife of a soldier during the war and is now a widow in actual need."

The following are the facts in the case:

The claimant was married October 8, 1857, to Charles H. Kennon, who served as quartermaster-sergeant of Company D, Second Regiment Rhode Island Volunteer Cavalry, from December 24, 1862, until his death, May 23, 1863, which occurred in hospital in Louisiana. He left no property, and his widow was pensioned from the time of his death until her marriage, in 1867, with George G. Lambertson, who died December 5, 1870. He left no property to the claimant, and had no children by her.

The claimant is now 65 years of age, and is without property or income except what she receives for teaching in a country district school, and of which increasing physical infirmities may at any time deprive her.

The following affidavit has been filed in connection with the claim:

STATE OF CONNECTICUT, *County of Litchfield*:

GOSHEN, *January 22, 1898.*

Personally appeared before me Lyman Hall, a resident of Goshen aforesaid, who, being duly sworn according to law, deposes and says: That he well and personally knows Adelaide H. Lambertson, widow of Charles H. Kennon, late quartermaster-sergeant Company D, Second Rhode Island Cavalry, who died in the military service

of the United States in 1863. That to the best of deponent's knowledge and belief the said Adelaide H. Lambertson is 65 years of age. That she has in all respects an excellent reputation, and is of excellent character. That she has no property, and that her whole support is \$24 per month, which she receives for teaching in the seventh district school, in the town of Goshen, Conn. That the school is in session but thirty-two weeks in the year, making a total income from this source of \$192 per annum, and that the said Adelaide H. Lambertson is entirely dependent on this income for her maintenance and support.

LYMAN HALL.

Sworn to and subscribed this 22d day of January, 1898, at Goshen, Conn., before me, a notary public for the State of Connecticut.

[SEAL.]

CHAS. J. PORTER, *Notary Public*.

While this widow is not technically in "actual need," it is manifest that a woman who is teaching a country school at the age of 65 years for a salary of less than \$200 per annum is in constant danger of losing that limited support and becoming utterly dependent upon others. At least, her present means of support will soon cease.

Your committee therefore recommend the passage of the bill.

The bill is therefore reported back with the recommendation that it pass.

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ANDREW C. MENSCH.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3442.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 3442) granting an increase of pension to Andrew C. Mensch, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$20 to \$30 per month the pension of Andrew C. Mensch, of Camden, Del.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 3442) granting an increase of pension to Andrew C. Mensch, have examined the same, and report:

Soldier served as captain, Company E, Twentieth Pennsylvania Volunteer Infantry, and as first lieutenant, Company E, One hundred and thirty-second Regiment Pennsylvania Volunteer Infantry, and received an honorable discharge. Claimant is now receiving a pension at the rate of \$20 per month, dating from June 1, 1865, for sprain of back, varicose veins of left leg, and ventral hernia. His claim for increase, alleging disease of heart, result of rheumatism contracted in service, was rejected October 4, 1897, on the ground of no record or medical evidence of rheumatism in service and his inability to furnish same.

Claimant alleges that he contracted rheumatism on the march from Harpers Ferry to Belle Plains in the month of November, 1862. Claimant alleges (and it is shown by the record that he was granted a leave of absence at the time indicated) that he was granted a short leave of absence about this time on account of disability from rheumatism.

The claimant alleges treatment by assistant regimental surgeon for rheumatism, but there is no hospital record to prove said allegation.

Claimant's family physician states that claimant had neither rheumatism nor heart disease prior to his enlistment, and the evidence of comrades who served with him goes to show that he contracted rheumatism at the time and in the manner set forth in his allegation.

The claimant is now over 70 years of age. Medical evidence in the case shows existence of both rheumatism and heart disease, and the board of examining surgeons, in their report to the Pension Office, state that he is totally disabled, and that his heart disease is due to rheumatism.

Your committee therefore recommend that the bill be amended by striking out, in line 10, the word "forty" and inserting the word "thirty" in lieu thereof, and as thus amended recommend the passage of the bill.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 10, after the word "pension," insert "at the rate."

WILLIAM MELLICOTT, ALIAS WILLIAM REED.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 5707.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 5707) for the removal of the charge of desertion against William Mellicott, alias William Reed, late of Company G, Eighth Regiment Tennessee Cavalry Volunteers, and legalizing his services in Company E, Eleventh Regiment Tennessee Cavalry Volunteers, submit the following report:

This soldier was enrolled July 18, 1863, and mustered into service August 14, 1863, as a private in Company G, Eighth Regiment Tennessee Cavalry Volunteers, to serve for three years, and appears on the records of said regiment as having deserted.

The facts, however, are that the soldier never did desert in fact; but, not being satisfied with his membership in his own regiment, and preferring the Eleventh Regiment of Tennessee Cavalry, which was composed of his neighbors and acquaintances, he was received into the latter regiment on a promise of its colonel to exchange for him one of his own men with the Eighth Regiment of Tennessee Cavalry Volunteers. Under this arrangement the soldier was received as a member of the Eleventh Regiment of Tennessee Cavalry, and continued so to serve, and serve faithfully, until he, along with a large part of this regiment, was captured by the rebel army and taken first to Belle Isle and then to Andersonville, where he died a prisoner of war.

At the same time this soldier was captured the records of the regiment were also captured, and when the new muster rolls were made out his name was not entered thereon, he not being present, being then in a rebel prison; and his colonel not having furnished to the Eighth Regiment of Tennessee Cavalry the promised man in exchange, the soldier was marked as a deserter on the rolls of the latter regiment.

The soldier never having deserted the service of the United States, but having served continuously and faithfully from his first enlistment until his capture, and having died a prisoner of war, your committee recommend the passage of the bill.

MARTHA E. CONKLIN.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McEWAN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 5730.]

The Committee on Claims, to whom was referred the bill (H. R. 5730) for the relief of Martha E. Conklin, having had the same under consideration, beg leave to report as follows:

The object of this bill is to pay the sum of \$5,000 to Miss Martha E. Conklin, of the District of Columbia, as compensation in part for alleged permanent injuries received by her and resulting to her in consequence of the falling of an elevator, August 1, 1894, in the Pension Office building in the city of Washington, while she was employed as a clerk by the United States Government, when being carried in said elevator from her room in said building on the third floor to the first floor.

The evidence on file in support of the bill, consisting of the claimant's sworn statement, the affidavit of Mrs. Jennie S. Earl, with whom claimant resided some time before and after the accident which resulted in injury to the claimant; the affidavits of Dr. Malcolm Cameron, claimant's physician; Dr. Ralph Jenkins, specialist in orthopedic diseases; Dr. Thomas L. McDonald, consulting physician; and the affidavits of employees of the Pension Bureau who were in the elevator at the time of the accident to the claimant, show the following facts:

The claimant, Miss Martha E. Conklin, was employed as a clerk in the Pension Office on the 1st day of August, 1894, the room where she was employed being on the third floor of the building. On the morning of August 1, 1894, she went to her office in good health and at the noon hour on said day she left the room where she was employed to go down on the elevator provided for the use of the employees of the office to the first floor. The elevator on that day was in charge of a laborer or carpenter who was an inexperienced hand at the business, and no warning was given to the claimant and the other occupants of the elevator that it was unsafe, and it was running its regular trips for the use of employees and the public.

While claimant and other employees were in the elevator it dropped about 10 feet and suddenly struck a brake with great force, which

resulted in a severe shock to all the occupants of the elevator, especially severe in the case of the claimant. Three employees of the Pension Office who were in the elevator at the time of the accident experienced severe shocks as of a blow upon the spine at the base of the skull. The shock to the claimant produced a sharp, piercing pain in the neck at the base of the skull, shooting upward to the top of the brain, since which time she has never been free from pain in the head, spine, and limbs, and these conditions increased until it became necessary for her to wear a jacket or harness of metal and other material with rigid steel support.

Dr. Thomas L. McDonald, attending surgeon at the National Homeopathic Hospital, Washington, D. C., who made a careful examination of claimant, found her suffering from infraction of the cervical vertebræ and the neuralgias and hyperæsthesia.

Dr. Ralph Jenkins, of the District of Columbia, states that the accident to claimant resulted in "a periostitis of the first, second, and third cervical vertebræ, which involved the surrounding structure, causing a local neuritis and general nervous and neuralgia symptoms. This condition is increasing, and is extremely painful and such as to unfit the claimant for any mental or manual employment."

Prior to the accident the claimant was in good health and entirely free from all nervous diseases, fully able to perform her office duties satisfactorily. Since receiving the said injuries she has been under the constant care of physicians, who declare her injuries to have resulted in her permanent disablement, and has been at large expense to alleviate her sufferings. Dependent upon her own labor for support, she was compelled, although at irregular intervals and with great pain, to continue to perform her clerical duties, but finally had to give up her position altogether.

It is fully proven to the satisfaction of your committee that the claimant, while in the enjoyment of health and in the line of her duty as an employee of the Government in the Pension Bureau, received injuries to her body, due to an accident caused by the falling of an elevator in charge of an inexperienced person, which injuries have resulted in permanently disabling her for the performance of her duties; have involved her in great pecuniary loss, and made her an invalid for life.

Your committee therefore deem the bill for her relief a just and meritorious measure, and report the same to the House and earnestly recommend its passage.

The sworn statement of the claimant and the affidavit of her physician, Dr. Malcolm Cameron, and the affidavit of Mrs. Jennie I. Earl are herewith attached and made a part of this report.

MEMORIAL OF MISS MARTHA E. CONKLIN.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of Martha E. Conklin respectfully represents:

That on or about the 1st day of September, A. D. 1889, she was appointed a clerk in the service of the United States, under civil-service rules, in the Patent Office and transferred to the Pension Office, and was in good health and able to perform the duties of her position with ease and comfort to herself and to the satisfaction of her superiors until the 1st day of August, 1894, when she was injured by the falling of an elevator provided by the United States Government for the use of its employees in the Pension Office, which she had entered to go from the room on the

third floor where she was employed, at noon, to the first or entrance floor. While in the elevator it dropped a distance of some ten feet and struck a brake with great force.

By reason of, and at the time of this fall, your memorialist suffered a severe concussion of the spine, which was followed by congestion of the brain and inflammation of the spine. This injury has resulted in a general disease of the nervous system, with the prospect of permanent invalidism. While in perfect health before August 1, 1894, ever since this accident your memorialist has been a constant sufferer and never free from severe pains. It has been necessary for her to have constant medical attendance and to employ specialists at a large expense. She has been under the care of Dr. Malcolm Cameron from August 1, 1894, the date of the accident, to the present time, and has, by his advice, consulted and been examined by Dr. McDonald, of No. 1406 Massachusetts avenue NW., professor of surgery of the Southern Homeopathic Medical College, of Baltimore, Md., and consulting surgeon at the Homeopathic Hospital in the city of Washington, and is now being treated by Dr. Ralph Jenkins, a specialist of repute, residing at No. 1732 Massachusetts avenue NW., in this city. And your memorialist has been put to large expense for medical attendance and care, and for various appliances which have been recommended to her by said physicians with the hope of alleviating her sufferings.

Your memorialist has no means of meeting these extraordinary expenses or of supporting herself except by her own labor, and she therefore, at the expense of continuous and severe pain and agony, retained her position as a clerk in the Pension Office, and has performed the duties of her position to the best of her ability, but she is often obliged by her physical condition and great suffering to be absent for days from her desk, and at all times works at a great disadvantage by reason, not only of her suffering, but because she is obliged to wear a plaster jacket with steel head support, which is a great burden, and a serious hindrance to her in her daily occupations.

Your memorialist is informed, and believes, that on the day (August 1, 1894) when the elevator fell, it was in charge of and being run by a laborer or carpenter who was not competent to run it, but your memorialist was not warned or informed that the elevator was not safe, and it was provided by the Government and run for the use of its employees on that day as on previous days.

Your memorialist therefore avers that the injuries received by her and the conditions resulting therefrom were received while in the line of duty, and are entirely the fault of the Government and its officials, and not in any way owing to any contributory negligence on her part, and that by reason of said negligence of the Government she has suffered severe injury, and great pain and agony, for which she has no hope of relief; and, on the contrary, has every reason to believe will continue to increase in violence until she is entirely helpless and unable to support herself. She further represents that by reason of said accident she has been put to a large expense which must continue indefinitely.

Wherefore she prays that a bill may be passed directing the payment to her by the Secretary of the Treasury of the sum of \$5,000, and for such further and other relief as to your honorable bodies shall seem just and equitable.

MARTHA E. CONKLIN.

Sworn and subscribed to before me this 15th day of May, A. D. 1896.

[SEAL.]

EMMA A. GILLET, *Notary Public*.

CITY OF WASHINGTON, *District of Columbia*, ss:

Personally appeared before me, Fred. G. Calvert, a notary public in and for the District of Columbia, Malcolm Cameron, who, being first duly sworn, deposes and says:

That he is a resident of the District of Columbia and has been a physician in full practice in said District for nine years and in other places for sixteen years previous.

That he has known Miss Martha E. Conklin for a number of years, and since the summer of 1890 was personally cognizant as her physician of her physical condition previous, and on or about August 1, 1894, the date when she met with an accident in an elevator in the Pension building, Washington, D. C., and since that time has been in constant attendance upon her professionally.

That previous to that accident and for a long time she had been in good health and entirely free from all nervous disorders and fully able to perform all the duties of life.

That on August 1, 1894, after the accident, he was called in by Miss Conklin to prescribe for relief from shock from concussion of the spine. At that time she stated to this deponent that while she was in company with a number of other employees of the Pension Office at noon hour descending in the elevator it suddenly fell a dis-

tance of about 10 feet, when she felt a sharp, piercing pain in the neck at the base of the skull, shooting upward to the top of the brain, which stunned her and left her in a very nervous state.

Two days afterwards she had to stop work on account of severe pain in the neck, radiating all through the head. From that day to this she has never been free from pain in the head, spine, and limbs. These conditions have steadily increased, and she is now threatened with total disability from traumatic inflammation of the cervical vertebræ. Walking, riding, and any motion increases the pain, and the only mitigation from pain that can be attained is in the recumbent position, and even this only lessens the degree of pain. The said Martha E. Conklin is, by reason of her condition, deprived of regular sleep, frequently not getting any rest through the entire night.

It has become necessary for the said Martha E. Conklin, by reason of her injuries, to wear a jacket or harness of metal and other material with rigid steel head support, which is of itself a burden as well as hindrance to the performance of her daily duties.

Your deponent further says that the disease from which the said Martha E. Conklin is suffering is progressive, and that it is his professional opinion that she is now kept up only by her strong determination and by the necessity of earning her own livelihood, but in time she must succumb to the disease; and further, she must always be at large expense for the means of alleviating her suffering.

This deponent further says that he is not related to the said Martha E. Conklin, nor is he in any way interested in the prosecution of her claim against the Government for injuries received.

MALCOLM CAMERON, M. D.

Subscribed and sworn to before me this 16th day of May, A. D. 1896.

[SEAL.]

FRED. G. CALVERT, *Notary Public*.

CITY OF WASHINGTON, *District of Columbia*, ss:

Personally appeared before me, J. H. Bradley, a notary public in and for said District, Mrs. Jennie S. Earl, who, being first duly sworn, deposes and says:

That she is a resident of said District and city and lived at No. 2217 H street N. W. until May 1, 1896. That in the fall of the year 1893 Miss Martha E. Conklin became an inmate of her said house, and continued to reside with her until the 30th of April of this year.

That during this time she saw the said Martha E. Conklin constantly and daily, and knows that previous to August 1, 1894, she was a woman in good health and able to attend to her daily duties with punctuality and ease.

That on the 1st day of August, 1894, she left the house in the morning in her usual happy condition of good health and spirits, and returned to the house later in the day in great agony and pain, which the said Martha E. Conklin explained to this deponent by saying she had suffered a concussion of the spine in an accident to the elevator in the Pension Office, which she had entered to go from the room where she was employed, on the third floor, at the noon hour, to the first floor.

From that time to the present the said Martha E. Conklin has been to the personal knowledge of this deponent, a constant sufferer, unable to sleep and unable to perform the slightest act without great bodily suffering, a condition that increases every day with intensity. It is the belief of your deponent that the said Martha E. Conklin would long ago have become entirely helpless as a result of the shock received August 1, 1894, had she not been a woman of resolute will and determined to continue her daily avocations.

Your deponent further says that she is not related to the said Martha E. Conklin, or in any way interested in the prosecution of her claim against the Government.

Mrs. JENNIE S. EARL.

Subscribed and sworn to before me this 15th day of May, A. D. 1896.

[SEAL.]

J. H. BRADLEY, *Notary Public*.

PETER DALY.

APRIL 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 158.]

The Committee on Invalid Pensions, to whom was referred the bills (S. 158 and H. R. 2020) granting a pension to Peter Daly, have examined the same and all the evidence and respectfully report:

This bill proposes to increase the pension of Peter Daly, of St. Paul, Minn., from \$6 to \$12 per month.

The Senate report (No. 341) is as follows:

The Committee on Pensions, to whom was referred the bill (S. 158) granting a pension to Peter Daly, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt and recommend the passage of the bill:

It appears that on the 20th day of October, 1857, Peter Daly enlisted at New York City and was assigned to Company K, First United States Infantry, then stationed in Texas, on the Rio Pecos, at a place called Fort Lancaster. Capt. R. S. Granger, afterwards General Granger, was his company commander.

“Doing frontier duty among the Comanche Indians from 1857 to 1861, when we were ordered by General Twiggs to turn over the post to the Texas State troops, then called the Texas Rangers. We had to march to the coast, a distance of between 100 to 500 miles. During this march my right leg swelled and pained me so much that I could not keep up with the command. I reported to our then surgeon, Dr. Joseph R. Smith, but owing to our limited transportation facilities he would not allow me to ride. Were it not for a teamster, by name of Daly, who allowed me to ride in his wagon a few days, I believe I would either have starved to death or been killed by the Indians, because we were then in their worst haunts. After a tedious march we arrived at a place called Green Lake, about 25 miles from the town of Matagorda, where we camped about two weeks, or, as I afterwards learned, until Major Van Dorn had his plans completed for our capture. We were ordered from Green Lake to Matagorda. We marched the distance in one day, most of the way being through a sandy desert; sun 90 degrees in the shade and no water. This was the severest march I ever made. Arriving at the coast, the rebels captured our transport. Our officers chartered three schooners then in the harbor. Two companies of my regiment, with 16 women and about 32 children, were put aboard one of them, but before we got outside of the bar we were captured and had to give our parole. Our doctor, Joseph R. Smith, was detained at San Antonio as a witness in a murder case, and we had no doctor on board the schooner; therefore I could get no medical attention.

On June 30, 1861, we landed at Fort Hamilton. After the rest during the voyage, and having no duty to perform, I had no need to report on the sick list."

The claimant was detailed on general recruiting service at Norristown, Pa., from October 12, 1861, to April 29, 1862, and at Buffalo, N. Y., from May 5, 1862, to discharge. The muster roll of recruiting and recruits at Buffalo, N. Y., of October 31, 1862, shows him "discharged October 20, 1862, at Buffalo, N. Y., by expiration of service." Borne on rolls as enlisted October 20, 1857.

He again enlisted January 30, 1865, at New York, N. Y., in the general service, United States Army, and was detailed on recruiting service at Philadelphia, Pa., from March 1, 1865, to discharge. The muster roll of the recruiting party and recruits at Philadelphia, Pa., of February 28, 1867, shows him "discharged February 1, 1867, Philadelphia, Pa., per Special Orders 53, Adjutant-General's Office, 1867." He was discharged at his own request by way of favor. Again enlisted March 17, 1867, at Richmond, Va., in Company E, Eleventh United States Infantry, appointed corporal March 28, 1867, promoted sergeant April 10, 1867. Transferred to Company E, United States Infantry, by consolidation of regiments, as a sergeant, April 1, 1869. Roll of April 30, 1870, shows him "discharged March 17, 1870, at Jackson, Miss., by expiration of service, a sergeant." Again enlisted August 2, 1872, at Fort Snelling, Minn., and was assigned to Company G, Twentieth United States Infantry, August 18, 1872. Never joined company, but during this enlistment was on detached service as guard at Headquarters Department of Dakota, St. Paul, Minn. Roll of August 31, 1873, shows him "discharged August 11, 1873, at St. Paul, Minn., for disability."

Claimant states: "My leg to-day is swelled a little, and if I exercise it much it swells and gets painful. I explained all this in several letters to the Pension Office, but because I had no hospital record my claim was rejected. Dr. Greenlee, of our Soldiers' Home here, Dr. Ancker, Dr. Hanley, of the city and county hospital, and my family physician, Dr. Johnson, have certified to these facts. My old captain, R. S. Granger, and a comrade by name of James Winn, also gave testimony of these facts. My old captain and James Winn are both dead. I am the only one, I think, now alive who knows of these events I here relate."

There is no doubt whatever in this case as to the disability of the claimant, as the large number of physicians in their examination have so testified, and several examining boards have also testified to the disability; but it has been rejected on the ground of the claimant's inability to furnish satisfactory evidence as to the origin of the disability in the service. In view of the long and honorable record, and the fact that he is unfit to earn a living by manual labor, and declared not to be pensionable under the general law, your committee are of the opinion that he should be granted a pension of \$12 per month.

The soldier has a disability of service origin that entitles him to \$12 per month, and the Senate bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 5, after the word "laws," insert "the name of."

Add at the end of line 7 the words "in lieu of the pension he is now receiving."

Amend the title so it will read: "An act granting an increase of pension to Peter Daly."

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, D. C., November 15, 1897.

SIR: In reply to your inquiry of the 8th instant (Docket No. 102-2020) I have the honor to advise you that Peter Daly on May 4, 1874, filed a declaration for pension under the general law, based upon his services in Company K, First United States Infantry, alleging strain of right arm, while lifting a barrel of some heavy substance at headquarters at St. Paul, Minn., in December, 1872, and in a declaration filed October 22, 1883, alleges rheumatism contracted in June, 1861, while returning from Texas.

May 7, 1895, the Adjutant-General United States Army reported that Peter Daly enlisted October 26, 1857, at New York, N. Y., and was assigned to Company K, First United States Infantry; joined company from Fort Columbus, New York Harbor, February 8, 1858. He was transferred to the general service, Fort Columbus, N. Y., September 23, 1861, and was detailed on general recruiting service at Morristown, Pa., from October 12, 1861, to April 29, 1862, and at Buffalo, N. Y., from May 5, 1862, to discharge. Muster roll of recruiting party and recruits at Buffalo, N. Y., of October 31, 1862, shows him "discharged, October 20, 1862, at Buffalo, N. Y., by expiration of service a private." Borne on rolls as enlisted October 20, 1862.

Again enlisted January 30, 1865, at New York, N. Y., in the general service, United States Army, and was detailed on recruiting service at Philadelphia, Pa., from March 1, 1865, to discharge. The muster roll of the recruiting party and recruits at Philadelphia, Pa., of February 28, 1867, shows him "discharged February 1, 1867, Philadelphia, Pa., per Special Orders, No. 53, Adjutant-General's Office, 1867, a private." He was discharged at his own request by way of favor.

Again enlisted March 17, 1867, at Richmond, Va., in Company E, Eleventh United States infantry; appointed corporal March 28, 1867; promoted sergeant April 10, 1867. Transferred to Company E, Sixteenth United States Infantry, by consolidation of regiments, as a sergeant, April 1, 1869. Roll of April 30, 1870, shows him "discharged March 17, 1870, at Jackson, Miss., by expiration of service, as sergeant."

Again enlisted August 2, 1872, at Fort Snelling, Minn., and was assigned to Company G, Twentieth United States Infantry, August 18, 1872. Never joined company, but during this enlistment was on detailed service as guard at Headquarters Department of Dakota, St. Paul, Minn.

Roll of August 31, 1873, shows him "discharged August 11, 1873, at St. Paul, Minn., for disability, a private."

Not shown sick on any roll during service. A private during first, second, and fourth enlistments.

July 15, 1895, this claim under the general law was rejected (legally) on the ground of no record of treatment in service, and claimant's inability to furnish satisfactory evidence as to origin of rheumatism in service or since discharge.

July 1, 1890, Peter Daly filed a declaration for pension under the act of June 27, 1890, alleging rheumatism and kidney complaint.

June 13, 1890, this claim was adjudicated and Peter Daly was pensioned by certificate No. 677978 at the rate of \$6 per month under the act of June 27, 1890, for rheumatism. No other disability shown in a ratable degree.

Mr. Daly was fully advised of the rejection of his general law claim, and the grounds therefor.

Mr. Daly is now 57 years of age.

There is nothing now pending in the case.

Very respectfully,

J. L. DAVENPORT,
Acting Commissioner.

The CHAIRMAN COMMITTEE ON INVALID PENSIONS,
House of Representatives.



CATHARINE M. PRITCHARD.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany House Res. No. 282.]

The Committee on War Claims, to whom was referred the bill (H. R. 4849) for the relief of Catharine M. Pritchard, submit the following report:

The bill confers jurisdiction upon the Court of Claims to hear and determine the claim of Catharine M. Pritchard, of New Orleans, La., for the use and occupation of property by authorities of the United States in New Orleans. Claim stated at \$12,930.

If claimant has a just claim it ought to be paid, and there is no reason why the proper facilities should not be afforded her to establish its validity. The committee therefore recommend that the claim be referred to the Court of Claims for a finding of facts under the provisions of the acts of March 3, 1883, and March 3, 1887, the former known as the "Bowman Act" and the latter as the "Tucker Act," and report herewith a resolution to that effect and recommend its passage.



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CONTROL OF STREET PARKING, DISTRICT OF COLUMBIA.

APRIL 11, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. COWHERD, from the Committee on the District of Columbia,
submitted the following

REPORT.

[To accompany H. R. 5880.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 5880) to vest in the Commissioners of the District of Columbia control of street parking in said District, beg leave to report the same back to the House with the recommendation that it do pass.

By section 225, Revised Statutes United States, relating to the District of Columbia, the proper authorities of the District were authorized to narrow the roadway of the street and use the land included within the curb for street parking. The space thus created between the building line and the street has in many instances been encroached upon for private use.

Under the law (secs. 226-230, Rev. Stat. U. S., relating to District of Columbia, and sec. 1818, Rev. Stat. U. S.) the authority to prevent such encroachments vests with the Secretary of the Interior and Chief of Engineers, and no such authority is given to the Commissioners of the District.

As the law now stands there is no authority in anyone to issue a permit for the laying of gas or water pipes across the street parking. This bill proposes to vest in the District Commissioners as to this street parking control heretofore vested in the two departments above named, and gives to them authority to make reasonable regulations for the care of same.

The bill as reported was formulated by the Commissioners of the District of Columbia and introduced at their request. The annexed communications, which your committee incorporates as part of its report, explain more fully the scope and necessity of the proposed legislation.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, December 24, 1897.

DEAR SIR: The Commissioners transmit herewith a draft of "A bill to vest in the Commissioners of the District of Columbia control of street parking in said District," which they recommend be substituted for the draft of a bill having the same title transmitted to you under date of the 13th instant.

2 CONTROL OF STREET PARKING, DISTRICT OF COLUMBIA.

The difference between this bill and the one the Commissioners propose that it replace is mainly in the addition of provision for the extension of the purview of the bill to the entire District of Columbia and to prevent its interference with the existing law requiring that permits for projections beyond the building line must have the concurrence of all the Commissioners and the approval of the Secretary of War.

Very respectfully,

JOHN B. WIGHT,
Acting Secretary Board of Commissioners, District of Columbia.

Hon. J. W. BABCOCK,
Chairman Committee on the District of Columbia, House of Representatives.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, March 26, 1898.

DEAR SIR: I take the liberty of again calling the attention of your committee to a matter of vital importance to the District of Columbia. I refer to the bill to vest in the Commissioners of the District of Columbia control of the street parkings, H. R. 5880, transmitted to the House December 24, 1897.

I have before me complaints with regard to the occupation of parking spaces by boxes, barrels, and rubbish, which were referred to the police department for action, and on which the lieutenant reports that, by decision of the court of appeals in Libbey's case, the offender can not be prosecuted for occupying the parkings for private purposes; also complaints with regard to the storage of stone on parking space, as to which the same situation is reported to exist. There are, too, numerous requests for the change of terraces and for paving parkings in front of stores and premises used for business purposes, etc. You can readily see that, with no one charged with the duty of having obstructions removed with power of enforcing the same in some court, the situation may be indeed deplorable.

Accompanying the report of the Commissioners, made December 13, 1897, is an abstract of the opinion in the case of the District of Columbia *v.* Frank Libbey et al., in the court of appeals, herewith inclosed. The court held that the power was vested in the Secretary of the Interior or the superintendent of buildings and grounds. The Secretary of the Interior has given his written approval of this proposed legislation, a copy of which is herewith transmitted.

The Commissioners would be pleased to have the authority vested somewhere, and if it does not seem appropriate to place it in the hands of the Commissioners it would be better to vest the sole responsibility and authority in either the Secretary of the Interior or the superintendent of public buildings and grounds.

Very respectfully,

JOHN W. ROSS,
President Board of Commissioners District of Columbia.

Hon. J. W. BABCOCK,
Chairman Committee on the District of Columbia, House of Representatives.

The District of Columbia sought to compel Frank Libbey et al. to remove from the parking in front of their premises materials which they had stored there in connection with the conduct of their business.

The court of appeals held that the said occupation was unlawful, and that the appellees might be dispossessed by proper proceedings for that purpose; that the provisions in the act of Congress of June 30, 1864 (13 Stat., 412), section 1818, Revised Statutes of the United States Relating to the District of Columbia, "that the Secretary of the Interior is directed to prevent the improper appropriation or occupation of any of the public streets, avenues, squares, or reservations in the city of Washington belonging to the United States, and to reclaim the same if unlawfully appropriated," are "permanent and of general application," but that the municipal authorities of the District have no power to compel the removal of the obstruction.

The court also held that this legislation, however, did not necessarily supercede or repeal the power vested in the Chief of Engineers, who, by act of March 2, 1867 (14 Stat., 457-466), succeeded to the duties imposed by the act of Congress of June 12, 1858 (11 Stat., 319-326), upon the commissioner of public buildings, "to cause obstructions of every kind to be removed from such streets, avenues, and sidewalks in the city of Washington as have been or may be hereafter improved in whole or in part by the United States, and to keep the same at all times free from obstructions," and to institute suit for the purpose.

With respect to the extent of the application of the ordinances of the corporation of Washington in the matter, and the act of Congress of April 6, 1870, upon which

the board of public works established the parking system, the court held that the act of the corporation of Washington of November 22, 1862, prescribing a penalty for private occupation of public streets and grounds was invalid, for the reason that Congress, by the act of June 12, 1858, vesting the commissioner of public buildings with power in the premises, withdrew the entire subject from municipal control.

DEPARTMENT OF THE INTERIOR,
Washington, January 11, 1898.

SIRS: I am in receipt of your letter of the 23d ultimo, inclosing for my consideration a draft of a bill which you have submitted to the Senate and House Committees on the District of Columbia, entitled "A bill to vest in the Commissioners of the District of Columbia control of the street parking in said District." The occasion for the proposed legislation is the recent decision of the court of appeals in the case of the *District v. Libbey et al.* (24 Washington Law Reporter, 726), wherein it is held in effect that the street parking is under the control of the Chief of Engineers of the United States Army, under sections 226-230, Revised Statutes of the United States Relating to the District of Columbia, and of the Secretary of the Interior by the act of Congress approved June 30, 1864 (13 Stat., 412), now incorporated in the Revised Statutes of the United States as section 1818.

The bill submitted proposes to transfer the jurisdiction of the officers mentioned over the street parkings in the streets and avenues of the city of Washington provided for by section 225 of the Revised Statutes Relating to the District of Columbia to the Commissioners, in order, you state, to provide for their proper protection and to prevent a recurrence of the improper use of public space for private purposes, as instanced in the case of the *District of Columbia v. Libbey et al.*, above mentioned.

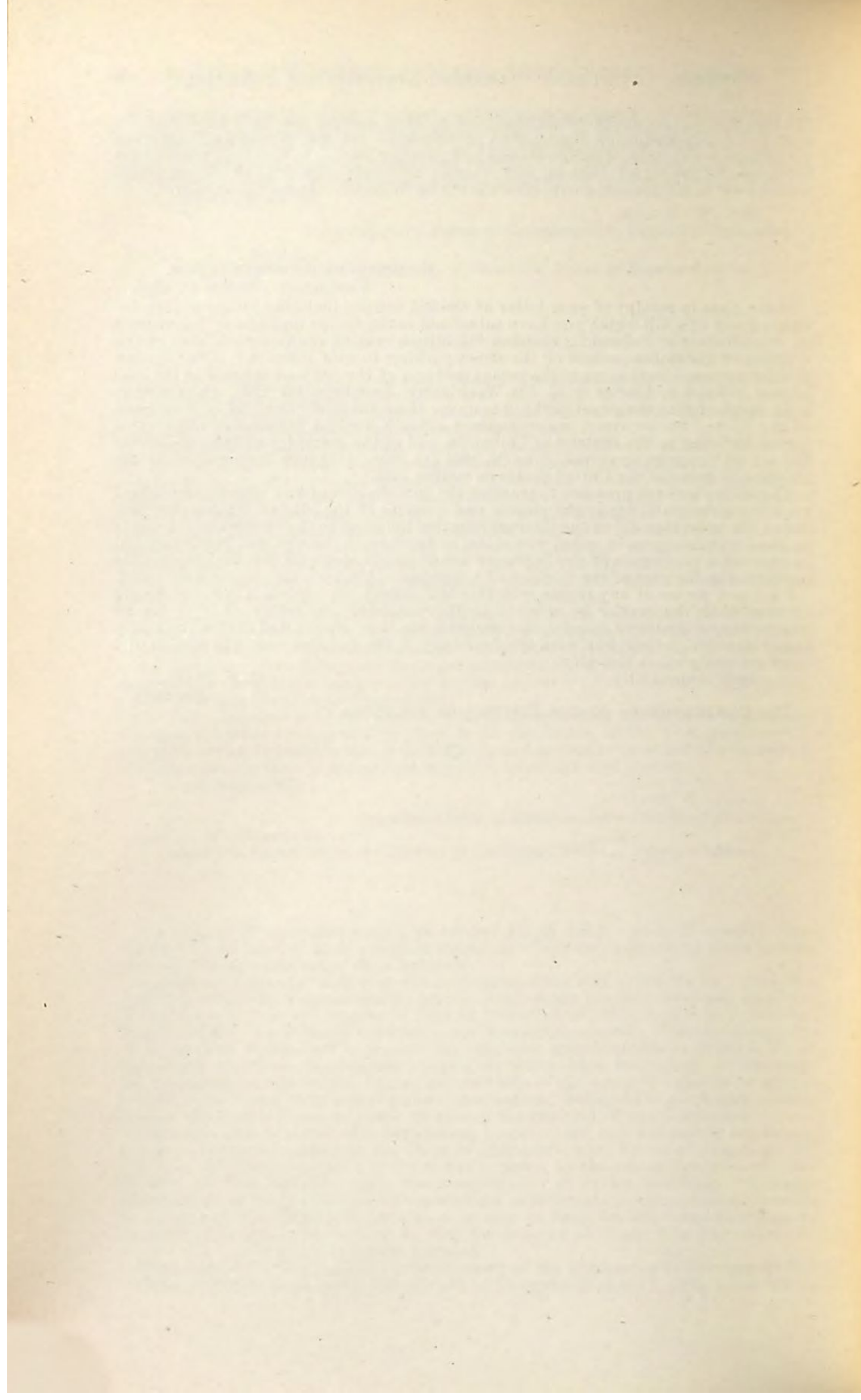
I am not aware of any reason why this bill should not become a law, but would suggest that the matter be referred to the honorable Secretary of War for an expression of his views thereon, the engineer officer of the United States Army having concurrent jurisdiction with the Secretary of the Interior over the streets and reservations, etc., in this city.

Very respectfully,

C. N. BLISS,
Secretary.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.





FOG SIGNAL AT OR NEAR THE BATTERY, NEW YORK.

APRIL 11, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BENNETT, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 1109.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1109) authorizing the Secretary of the Treasury to establish a fog signal at or near the Battery, New York, submit the following report:

This bill has the recommendation of the Light-House Board, and the amount herewith appropriated was submitted by the Secretary of the Treasury in the Book of Estimates.

In the report of the Light-House Board for the fiscal year ending June 30, 1897, is found the following:

The Battery, at the junction of the Hudson and the East rivers, New York Harbor, New York.—There is no bell, whistle, or other fog signal between the South Ferry on the East River and the Liberty Street Ferry on the Hudson or North River. The large number of towing and other steamers navigating New York Harbor and trying to go around the Battery, when, as they often are, caught in a dense fog, are in extreme hazard, especially as the bell on Governors Island can be heard only during a southerly wind. The owners and representatives of the steam vessels state that the establishment of a fog signal at the Battery would give a greater degree of safety than is possible at present. The establishment of such a fog signal, it is estimated, would cost not exceeding \$3,600, and it is recommended that an appropriation of this amount be made therefor.

In support of the measure the Treasury Department writes:

TREASURY DEPARTMENT,
Washington, D. C., February 15, 1898.

SIR: Referring again to your letter of 20th January, 1898, inclosing H. R. bill No. 1109, authorizing the Secretary of the Treasury to establish a fog signal at or near the Battery, New York, and asking suggestions touching the merits of the bill, I have the honor to inform you that the Light-House Board, to which the matter was referred, reports that an item for this purpose was included in the estimates recently submitted by the Light-House Board and approved by the Department.

The passage of the bill is therefore recommended.

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

CHAIRMAN COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

Your committee therefore recommend the passage of the bill.

JULIETTE HARROW.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8723.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8723) granting an increase of pension to Juliette Harrow, have examined the same and all the evidence and respectfully report:

This bill as amended proposes to increase from \$8 to \$30 per month the pension of Juliette Harrow, of Mount Vernon, Ind., as widow of the late Brig. Gen. William Harrow.

The soldier enlisted and was mustered into service as major Fourteenth Indiana Volunteer Infantry June 7, 1861; was promoted and resigned as colonel January 21, 1863; was commissioned as brigadier-general April 4, 1863, and resigned April 20, 1865. He was killed in a railroad accident September 27, 1872.

This widow married the soldier June 18, 1857, is now about 67 years of age, has no property, income, or means of support except her pension of \$8 per month, which is not sufficient for her support.

The services of this soldier were long, arduous, and especially brilliant and distinguished. He commanded the First Brigade, Second Division, Second Army Corps, from June 2 to July 3, 1863, and the Second Division, Second Army Corps, from July 3 to October 3, 1863. What he and his command did then will always be remembered.

He contracted and suffered from lung disease while in the service, and was broken down physically when the war closed. His wife, this claimant, was his devoted wife and faithful nurse until he met his death. This is one of those cases when your committee are of the opinion that an increase of the widow's pension to \$30 per month is fully warranted. It is as meritorious as the cases of Mrs. Pile, Mrs. Stevenson, and Mrs. Smith, already reported from this committee at \$30 per month and approved by the House.

The bill is reported back, with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out the following: "At the rate of fifty dollars per month; also strike out the capital letter "J."

In line 6 strike out the following: "Of Mount Vernon, Indiana."

At the end of line 8 add the following: "And pay her a pension at the rate of thirty dollars per month in lieu of the pension she is now receiving."

Amend the title to read: "A bill granting an increase of pension to Juliette Harrow."

JUSTIN O. HOTTENSTEIN.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9295.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9295) granting an increase of pension to Justin O. Hottenstein, have examined the same and all the evidence relating thereto and respectfully report:

This bill proposes to increase from \$17 to \$24 per month the pension of Justin O. Hottenstein, of Humboldt, Kans.

This soldier served as private, sergeant, and first lieutenant, Company G, Twentieth Illinois Volunteer Infantry. He enlisted April 24, 1861, as soon as he could on the breaking out of the late civil war, and was discharged June 25, 1864, having become totally disabled from further military duty by reason of a gunshot wound through left breast and lung received in battle and chronic diarrhea contracted in the service and in line of duty. He has never recovered, and now suffers from an abscess (result of wound), neuralgia in breast, heart trouble, and disease of digestive organs.

June 25, 1864, he was pensioned at \$12.75 per month for gunshot wound through left breast and lung. This was increased to \$18 from February 21, 1876, and to \$24 from March 3, 1883. This was reduced to \$17 from March 4, 1886, and many applications for increase have been rejected. July 16, 1891, the soldier having alleged and established chronic diarrhea and piles of service origin as additional disabilities, a reissue was made including these disabilities, but, strange to say, no increase was granted. Defective hearing, proved to exist, was rejected as not resulting from gunshot wound through breast and lung, although no other cause for deafness was shown.

J. F. Raub, medical referee, says:

Approved for gunshot wound through left breast and lung and chronic diarrhea and piles; third grade from June 16, 1897. Neuralgia in breast and disease of digestive organs covered by approval and rate.

A special examiner says:

This claimant bears an excellent reputation. He made his statement in a most straightforward and candid manner, and while he was with me for several days during the examination he impressed me as being a most carefully truthful man.

The medical records of the Army show that he was mustered first lieutenant April 7, 1863, and wounded as described May 12, 1863, at battle of Raymond, Miss.; the bullet passed through the body, emerging between left scapula and spine, hemorrhage from lung following. He was discharged on surgeon's certificate of disability. This wound has never fully healed; an abscess formed and almost constantly discharges more or less, constituting a constant drain upon the system. It is self-evident that unless other disease intervenes and kills the soldier he will die from the effects of this wound.

His disabilities are proved by a mass of uncontroverted testimony, medical and lay, and his allegations remain unshaken by at least two special examinations.

The reduction of this man's pension from \$24 to \$17 was without excuse or justification. The refusal to increase it to \$24 per month when the additional disabilities of service origin were established was without excuse or justification.

The soldier suffers from disabilities of service origin that entitle him to a pension of \$24 per month, and the bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 6 strike out the capital "J" and insert "Justin" in lieu thereof

In same line, strike out the words "of Humboldt, Kansas."

In line 7 strike out all after the word "Infantry" and insert in lieu thereof "and pay him a pension at the rate of twenty-four dollars per month."

Amend the title so as to read: "A bill granting an increase of pension to Justin O. Hottenstein."

SAMUEL H. BECKWITH.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 7306.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7306) granting an increase of pension to Samuel H. Beckwith, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of Samuel H. Beckwith, of Utica, N. Y.

This soldier enlisted as a private in Company F, Eleventh Illinois Volunteer Infantry, in advance of the promulgation of President Lincoln's first call for volunteers in April, 1861. He was enrolled at Morris, Ill., and tendered the services of two full companies to Governor Yates, who accepted the first company, which became Company F, Eleventh Regiment Illinois Volunteers, Col. W. H. L. Wallace, and which was organized at Springfield, Ill., April 25, 1861. The second company was not accepted at the time, and therefore Beckwith, who had been elected an officer in the second company, disbanded the same and joined the first company as a private. He was discharged from this service at Birds Point by reason of expiration of enlistment July 30, 1861. He immediately reenlisted in the same company and regiment for three years, and was almost immediately detached as secretary to Colonel Wallace, then commanding the brigade.

The day following the battle of Belmont Sergeant Beckwith carried an order from General Grant through the country infested by bushwhackers and overtook and changed the direction of the columns commanded by Wallace and Oglesby. He traveled unattended a distance of over 70 miles, and was in great danger every step of the way. Colonel Wallace was killed at Shiloh April 6, 1862, and Beckwith returned to his regiment, where he remained until July, 1862, when he was ordered by General Halleck to report at Corinth, Miss., for special duty as telegraph operator. Later he was ordered to duty with General Grant at Lagrange, Tenn., and, later still—January 27, 1863—by

special order of the Secretary of War, he was discharged as soldier to enable him to become a member of the military telegraph corps.

After the surrender of Vicksburg Beckwith was placed in charge of General Grant's entire cipher correspondence, with orders to personally accompany him day and night wherever his duties called him. This he did. He resigned February 14, 1866, after four years and ten months of continuous arduous duty. He received no bounty and no pay beyond that allowed a soldier. In July, 1890, he was granted a pension of \$12 per month. Beckwith endured hardships and incurred disabilities in the service which have seriously affected his eyesight and general health, and he is now partially blind and a broken-down old man. The work he did, and the value of his services, is best shown by a letter voluntarily written and given to Sergeant Beckwith when he left the service, and which is as follows:

HEADQUARTERS ARMIES OF THE UNITED STATES,
Washington, D. C., February 14, 1866.

DEAR SIR: Now that you are about leaving the service of the United States, after more than four years' continuous duty, it affords me pleasure to bear testimony to the efficient manner in which you performed your duties. Enlisting early in the war as a private soldier, you were, in 1862, if my memory serves me right, detailed on special duty at my headquarters as telegraph operator. Performing your duties faithfully, you were discharged, in 1863, as a soldier, to take employment with the Army as operator, and were soon afterwards placed in over all other operators at headquarters. Soon after the army cipher was intrusted to you. From that time to the close of the rebellion no reason ever existed for relieving you from the confidential position of cipher operator, thus intrusting to your knowledge every dispatch, order, and information of such importance as to demand being communicated so that none should know of them but those for whom they were intended, and hence you were continued in your position.

Now that you leave the public service for private pursuits I wish you every success, and in the position of telegraph employee, any capacity, do not hesitate to recommend you.

Yours, truly,

U. S. GRANT,
Lieutenant-General.

S. H. BECKWITH.

No more valuable services were or could have been rendered by any soldier during the war than those performed by Samuel H. Beckwith, and now in his old age, broken-down condition, and necessitous financial condition, your committee take great pleasure in reporting this bill back with the recommendation that it pass when amended as follows:

In line 5 strike out the capital letter "S" and insert in lieu thereof the word "Samuel."

In line 7, after the word "pension," insert the words "at the rate."

Amend the title so it will read: "A bill granting an increase of pension to Samuel H. Beckwith."

CHARLES F. HOLLY.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2220.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 2220) and the bill (H. R. 1190) granting an increase of pension to Charles F. Holly, have carefully examined the same and all the evidence and respectfully report:

The Senate bill as amended by your committee proposes to increase from \$20 to \$30 per month the pension of Charles F. Holly, of Pueblo, Colo.

The military record of Charles F. Holly (annexed hereto) shows that he was appointed captain Company F, Third Colorado Infantry Volunteers, and commissioned as of July 16, 1863, and was honorably discharged on tender of resignation before the close of the war, September 16, 1864, making a total service of fourteen months.

During July and August, 1863, he was on recruiting service; during September and October, 1863, he was on detached service at Denver, Colo. T.; in November and December, 1863, he was absent on detached service; in January and February, 1864, he was absent on detached service at Kansas City, and also during March and April, same year, as member of a board of officers, but during April, 1864, was sick at Kansas City, Mo. During May and June was absent with leave, and during July and August, 1864, he was absent on detached service. He resigned in September. He did no duty in the field and was not with his command in any battle or campaign.

He has presented his case to the Bureau of Pensions and has been awarded a pension of \$20 per month, the total of his rank.

He is now 77 years of age—an old man—and is pensioned for all the disability he has of service origin, viz, results of sunstroke. He is, of course, feeble, stooped from old age, and losing his eyesight. Such disabilities usually follow old age. They are not shown to be due to service. The soldier did not do duty or endure any hardship likely to produce them. There is no evidence showing the soldier to be poor or in necessitous circumstances. He writes a fair hand and has a good

mind. There is nothing in the case to warrant an increase of this pension to \$50 per month. An increase to \$30 is giving all the facts will in any way warrant. The soldier is not helpless. His shoulders are stooped and he walks tottering. But few men of his age are not in a like condition.

In the case of John P. Thomas (H. R. 164, Report No. 304), who served three years in the field and is now in absolute want and paralyzed and helpless from disease contracted in the service and a Southern prison, and is very poor, absolutely poverty stricken, the Senate cut down the amount given by the House to \$30 per month.

That case is in every respect and in every aspect much more deserving than this. Special legislation in these cases must be consistent, and some degree of equality must be maintained. We must not be open to the charge of favoritism or partiality, but treat all alike who present substantially the same facts.

We annex hereto the reports on the two cases. In the Thomas case the soldier requires the constant aid and attendance of another person, while in the case of Holly, now being considered, not even frequent and periodical aid and attendance is required. In the Thomas case, long and hard service and exposure in the field and in a Southern prison have produced the disabilities, while in the case at bar old age is the chief producing cause.

The Senate bill is reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "cavalry" insert the words "and pay him a pension."

In the same line strike out the word "fifty" and insert in lieu thereof the word "thirty."

Military record of Charles F. Holly, captain Company F, Third Colorado Infantry, and Company H, Second Colorado Cavalry.

Charles F. Holly was mustered into service as captain Company F, Third Colorado Infantry Volunteers, to date July 16, 1863, with remarks:

"Appointed captain of Company F, Third Infantry, Colorado Volunteers, by Governor John Evans. Commissioned July 16, 1863. Was absent by order of Governor John Evans on recruiting service for his regiment at the time of the muster in of his company. This muster in is made to take effect from July 16, 1863, the date of his commission and muster in of his company."

He is reported on the muster rolls of the company as follows: July and August, 1863, "Absent in Missouri on detached service by order of Governor John Evans, of Colorado Territory;" September and October, 1863, "Absent on detached service, Denver, Colo. T." The Second and Third Colorado Volunteer Infantry were consolidated and formed the Second Colorado Cavalry in October, 1863, and Captain Holly was assigned to Company H, Second Colorado Cavalry, November 26, 1863.

The rolls of Company H, Second Colorado Cavalry, report him as follows: November and December, 1863, "Absent on detached service;" January and February, 1864, "Absent on detached service at Kansas City;" March and April, 1864, "Absent on detached service at Kansas City. Member of board of officers per Special Orders, No. 42, Headquarters D. C. M., February 25, 1864;" May and June, 1864, "Absent with leave from April 1, 1864, to April 15, 1864. Sick at Kansas City, Mo.;" and July and August, 1864, "Absent on detached service."

The medical records show him admitted to post hospital, Kansas City, Mo., June 23, 1864, with diarrhea.

He was honorably discharged the service on tender of resignation September 16, 1864.

Official statement furnished to Hon. John C. Bell, M. C.

By authority of the Secretary of War:

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,

War Department, January 17, 1896.

[House of Representatives, Report No. 304, Fifty-fifth Congress, second session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 164) granting an increase of pension to John P. Thomas, have considered the same, and after a careful examination of the evidence on file at the Pension Bureau and some additional evidence, particularly as to the financial condition of the soldier, respectfully report:

This bill proposes to increase from \$12 to \$50 the pension of John P. Thomas, of Newberg, Oreg., who served as a private in Company H, Thirty-sixth Iowa Infantry, from August 8, 1862, to August 24, 1865, when he was honorably discharged.

During his service he was treated for rubeola, jaundice, intermittent fever, and general debility. The evidence of several comrades who served with him, and whose credit is not questioned, shows that while in the Army his nervous system became seriously affected. He was captured at the battle of Mark Mills and confined ten months in a Southern prison at Tyler, Tex. Continuance of these diseases is proved.

On application, he was granted a pension of \$4 per month, under the general law, for chronic diarrhea and piles. In 1885 he applied for increase, alleging disease of lungs and paralysis agitans, in addition to his pensioned disabilities. The claim was submitted for approval, but the medical referee refused to accept these disabilities as resulting from service, and the claim was thereupon rejected.

The soldier is now drawing \$12 per month under the act of June 27, 1890. He has no property or income, and is wholly dependent upon relatives for the care and attention absolutely required. He is 52 years of age, and it is proved that while confined in prison he suffered from scurvy. The soldier claimed to have contracted disease of lungs in the service, and this was approved as legally established, but was medically rejected on the ground of no disability. This does not necessarily hold that he did not have disease of lungs. Several of his comrades testify that he had measles in the service, and this is corroborated by the record, and the same witnesses testify that he was thereafter and while in the service seriously affected in his nervous system. They say "he trembled so that he could scarcely do anything." There is evidence to show that this nervous trouble has affected him ever since. As early as August 31, 1885, he had paralysis agitans, and it is claimed that this is the result of the diseases contracted in the service.

There is much evidence tending to prove that his present nervous disease is the result of measles. When examined at Portland, Oreg., on November 5, 1884, the board said:

"We find partial paralysis of the right lower extremity, and paralysis agitans of a severe grade of the right arm and hand, and he (the soldier) says he has noticed this nervous condition ever since he had the measles, but it has increased very much of late years."

It is conceded that he is unable to perform manual labor. November 4, 1885, the Portland (Oreg.) board said:

"He has very marked paralysis agitans of right upper and lower extremities. His hand is weak, with very little grasping power, and the arm is practically useless to him."

In 1888 the same board said:

"Paralysis agitans affecting the whole of the right side; the muscles of the right side are in a constant state of contraction and relaxation, rendering him almost entirely helpless. He walks with difficulty, and the right arm is entirely useless. Is unable to dress or undress himself, and can feed himself only with left hand."

In 1889 the examining board at Portland was directed, "Give full description of nervous condition, and probable cause of same." In response the board said:

"Tenderness on pressure over sixth cervical and eighth dorsal vertebra. Has paralysis agitans of all the muscles of the body, particularly involving the upper extremities, rendering him entirely helpless. He is not able to dress or feed himself, necessitating the presence of an attendant. Probable cause, measles, and resulting spinal irritation. Rate, \$72."

August 3, 1892, the McMinnville (Oreg.) board said:

"Applicant has paralysis agitans, affecting both upper and lower extremities to such an extent that he can not feed nor dress himself; has not been able to feed himself for four years. Can not get out of a chair without assistance, neither can he sit down alone. He requires the services of an attendant constantly; can not urinate, defecate, or eat without assistance. In fact, this man is totally helpless and dependent from shaking palsy, and we believe he is entitled to a first-grade rating, \$72."

The secretary of the Portland board, on March 27, 1896, examined the soldier at his home and found total helplessness, requiring regular aid and attendance, entitling him to a rating of \$72.

The claimant, his comrades and neighbors, and two examining boards believe the paralysis to be due to measles in the service. The legal branch of the Pension Office has never disposed of the claim for nervous affection resulting from measles

in service, but has constantly evaded the issue by referring the alleged resulting paralysis to the medical referee, and the medical divisions could not, of course, accept the paralysis first found, on examination so many years after the war, as a result of measles twenty years before, without existence of nervous affection in the meantime being approved as legally shown.

In short, with a great abundance of legal evidence uncontradicted, showing that the soldier had the measles while in the service, and nervous affection immediately thereafter and substantially continuously down to the present time, the legal department of the Bureau has refused to say that it is proved that the soldier had nervous affection resulting from the measles and that it has continued since, constantly referring this question over to the medical division to say whether the nervous condition resulted from the measles. The medical department has as often referred it back to the legal department to find out whether the soldier had the measles and nervous affection from that time on. As often as sent back the case would be referred to some medical board, with the result that the examination showed the same conditions, only constantly increasing. So this claimant, totally disabled, has been put off for years, while the Pension Bureau has been playing this game of shuffle and evading a decision.

It is proved that the habits of this soldier were good while in the service and that they they have been good since. There is no pretense that any trouble from which he suffers has resulted from vicious habits.

It is, of course, well known to medical men, as well as to the great mass of mankind who know anything whatever on the subject, that measles may and often do produce conditions affecting the nervous system, and that this affection may and many times does increase, and may and sometimes does result in the condition in which this man is found. There is not the slightest pretense or suggestion that the present condition of this soldier results from anything aside from his army service and the diseases there contracted. The records show that the soldier had general debility following the measles in the service. Had the record said nervous debility, no one would question the fact that the records show nervous debility from the time he had the measles. Probably this is an error in the record made at the time. At any rate, there is a great abundance of testimony proving that he did have nervous debility immediately following the measles which has always attended him.

The papers at the Pension Office show cause—effect. The cause would produce the effect. The effect produced is not shown to be the result of any other cause. The cause shown is army service. What is the natural and logical conclusion? The answer is plain, that the present condition of this soldier is the result of his army service.

As your committee have not the slightest doubt that the present condition of this soldier is the result of disease contracted by him while in the service of his country, aggravated undoubtedly by his confinement in a Southern prison, the bill is reported back with the recommendation that it pass.

[House of Representatives Report No. 1323, Fifty-fourth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1303) granting a pension to Charles F. Holly, having considered the same, adopt the accompanying Senate report (No. 69) and recommend the passage of the bill as it passed the Senate.

[Senate Report No. 69, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (S. 1303) granting a pension to Charles F. Holly, have examined the same and report:

Claimant was captain of Company H, Second Regiment Colorado Volunteer Infantry, and while in the service suffered from sunstroke. He was pensioned for headache, vertigo, and general nervous prostration, the result of sunstroke, and is now drawing \$20 per month. Application for increase has been rejected on the ground that his present condition is due to old age rather than to the results of sunstroke.

Claimant is over 75 years of age, and there are scores of affidavits on file (medical and otherwise) showing that he is totally disabled and requires the constant attendance of another person. The last official medical examination of claimant was made by the board of medical examiners at Pueblo, Colo., February 7, 1894, the report being as follows:

"He is a very feeble old man; shoulders much stooped; walks tottering; is very

hard of hearing and has very little memory; body thin and poorly nourished; spines of cervical vertebræ very tender. He is unable to walk with eyes closed, and can not stand for an instant upon one foot with eyes closed. His skin is hyperæsthetic over the whole body. His shoulders, knees, and hips present crepitus on movement, and the movement of left hip is abridged to one-third normal. Right hip and knee present about one-half normal movement. Is unable to dress or undress himself without assistance, which he considers due to rheumatism, but which we believe to be due to the general neurasthenia resulting from sunstroke."

In addition to this the board found the heart sounds nervous and irritable, and also that claimant was suffering from a large oblique inguinal hernia.

This case presents an interesting study of the difference of opinion between medical boards who personally examine claimants and that of the medical officers of the Pension Bureau. Had the opinion of the examining board in this case been accepted the soldier's pension would have been increased to \$72 per month, but as their opinion was overruled no increase was allowed.

Your committee call attention to the fact that the pension was granted for headache, vertigo, and general nervous prostration, resulting from sunstroke, and also to the further fact that the present condition of soldier is typical of an advanced case of neurasthenia (nervous prostration). There are several medical affidavits on file in the case showing this fact, in addition to the opinion of the three members of the medical board who last examined him. Under these circumstances it seems more than probable that the disability contracted in the service has had much to do with the existing condition. Recognizing, however, that at best it is a matter of opinion, your committee do not feel justified in recommending the full pension of \$72 per month, but recommend the passage of the bill, with an amendment as follows:

Amend by striking out the word "seventy-two," in line 7, and inserting in lieu thereof the word "fifty."



MARY McLAUGHLIN.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 3001.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3001) granting a pension to Mary McLaughlin, have examined the same and the evidence and most respectfully report:

This bill proposes to pension at \$20 per month Mary McLaughlin, of Garnett, Kans., the widow of James McLaughlin, who was captain of Company I, Tenth Kansas State Militia, from November 10, 1863, to October 30, 1864.

He filed a claim for pension under the general law, but it was rejected January 23, 1883, on the ground that he was not in the United States service when he contracted the alleged disability, consequently he has no title. The organization in which he served was a State organization and not in the United States service, but did valuable service for the Union cause.

A special act of Congress was passed and approved August 21, 1888, to pension him, subject to the provisions and limitations of the pension laws, and under the provisions of that act he was pensioned at \$20 for disease of eyes, total of rank as captain.

Another special act was passed and approved February 28, 1891, to pension him at \$20 per month, but as he was already receiving that amount this act was inoperative.

The widow has never applied for pension at the Pension Office, having no title under either law.

She is 74 years of age and is entirely without means of support. The bill is reported back with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out "at the rate of twenty dollars per month."

Strike out all after the word "Militia," in line 9, and insert in lieu thereof "and pay her a pension at the rate of twenty dollars per month."

GARNETT, KANS., *March 23, 1897.*

FRIEND PETERS: James McLaughlin, now deceased, and his wife, now his widow, Mary McLaughlin, lived in this city from about the foundation of the city, and they were, and the widow now is, as highly respected as any citizens in the county. Mr. McLaughlin in his lifetime was a pensioner under certificate No. 407126, captain of Company I, Tenth Regular Kansas Militia Volunteer Infantry, under a special act of Congress.

His widow, Mary McLaughlin, is now 74 years old; they depended during the last years of his life entirely upon that pension, which was \$20 per month, and the widow is now entirely without any means of support and depends upon the charities of the citizens of this city, who, through respect, up to the present time have not permitted her to go through the usual course that poor people have to go through and get their support from the Public Treasury, either by applying to the public officers or at the poorhouse.

Now, I know of no greater kindness that you could do for any citizen of this county or any kindness that would be more generally appreciated, more thankfully received, than to see to it that by special act, as was done for her husband in his lifetime, she be awarded a small pension—enough to support her during the remainder of her life.

And I myself personally acknowledge myself under obligation to you for whatever effort in this direction you may make.

Yours, respectfully,

NOAH L. BOWMAN.

Hon. M. S. PETERS,
Member of Congress, Washington, D. C.

KANSAS COURT OF APPEALS, SOUTHERN DEPARTMENT,
Garnett, Kans., March 23, 1897.

MY DEAR SIR: I understand that Mary McLaughlin, widow of James McLaughlin, formerly pensioner under certificate No. 407126, is trying to get a pension. I have been acquainted with the family for many years, and I want to assure you that Mrs. McLaughlin is worthy of assistance. She is one of the pioneers, and now in her old age is entirely dependent on others for support. I trust you will render her whatever service you can.

Yours, respectfully,

MANFORD SCHOONOVER.

M. S. PETERS, Esq.,
Kansas City, Kans.

PETITION.

To the Senate and House of Representatives in Congress assembled:

Your petitioner, Mary McLaughlin, respectfully represents that she is the widow of James McLaughlin, who was captain of Company I, Tenth Regiment Kansas State Militia, and was at the time of his death, October 1, 1896, receiving a pension of \$20 (twenty) per month, in pursuance of a special act of Congress passed and approved August 21, 1888, certificate number 407126.

Your petitioner further represents that, owing to the fact that her deceased husband, James McLaughlin, was not regularly mustered into the service, she is not, under existing laws, entitled to a pension and has not applied therefor; that she is now 74 years old, feeble, unable to work, has no property, income, or means of support whatever other than that of public and private charity. She therefore prays your honorable body to enact and pass a special act granting her a pension.

Respectfully submitted.

MARY McLAUGHLIN.

Witness:

MARY E. LINDSAY.
J. H. STEWART.

EDSON SULLIVAN.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5102.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5102) granting an increase of pension to Edson Sullivan, have examined the same and the evidence and respectfully report:

This bill, as amended, proposes to increase from \$12 to \$24 per month the pension of Edson Sullivan, of Tilton, N. H., who served as a private in Company C, First New Hampshire Heavy Artillery, from August 19, 1864, to June 15, 1865, and was honorably discharged.

On August 30, 1867, by an accident in a factory he lost both arms near the shoulder. He never filed a claim for pension under the general law, and does not allege any disability in the service, and the report from the War Department does not furnish any evidence of disability in the service. He filed a claim July 16, 1890, under the act of June 27, 1890, for loss of both arms and rheumatism, and has been pensioned at \$12 from date of filing.

His financial condition is shown not only by his own affidavit, filed with the committee, but is known to the Congressman from his State, in which he says that since the accident he has not been able to do any work or earn any money and has been supported at the Soldiers' Home at Togus, Me., and the New Hampshire Soldiers' Home, where he now is. He desires increase of pension, such as will enable him to live elsewhere than at a Home. He is about 60 years old and a man of good character.

Considering his helpless condition and record as a soldier your committee recommend an increase to \$24 per month, and the bill is reported back with the recommendation that it pass, when amended as follows:

In line 7 strike out the words "of fifty" and insert in lieu thereof the words "at the rate of twenty-four."

The Chinese Board of Investigation of the 1911 Revolution, established in the summer of 1911, was the first official body to investigate the events of the 1911 Revolution. It was created by the Provisional Government of the Republic of China, which had just been established in Nanjing. The board's mandate was to investigate the causes of the revolution and to recommend measures to prevent a recurrence of such events.

The board's report, published in 1912, was a landmark document in the history of the 1911 Revolution. It provided a detailed account of the events of the revolution and offered a comprehensive analysis of the factors that led to its outbreak. The report also included a series of recommendations for the new government, which were intended to help it to build a stable and prosperous nation.

REPORT

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LUCIA A. HYNES.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 507.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 507) granting a pension to Lucia A. Hynes, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes in effect to restore to the pension roll, at the rate of \$17 per month, the name of Lucia A. Hynes, of Exeter, N. H.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 507) restoring to the pension roll the name of Lucia A. Hynes, have examined the same and report:

John R. Hynes was appointed second lieutenant of Company A, Third New Hampshire Volunteer Infantry, August 22, 1861; was promoted to first lieutenant May 1, 1862, and mustered out September 28, 1864. He was then appointed captain and assistant quartermaster, accepted October 3, 1864, and was discharged as captain May 1, 1867. January 22, 1867, he was commissioned second lieutenant Twenty-fourth United States Infantry; was promoted to first lieutenant October 5, 1867, and died at Manchester, N. H., October 31, 1870.

The widow was married to the soldier November 2, 1856, and was pensioned from November 1, 1870, at \$17 per month and \$2 per month for minor child. November 24, 1874, the widow married Henry B. Cotton, when her pension was transferred to the child, and which terminated June 27, 1884, when child became 16 years of age.

The following communication from the claimant gives all particulars relative to her case:

EXETER, N. H., March 1, 1897.

To the Congress of the United States:

Your petitioner, Mrs. Lucia A. Hynes, is the widow of John R. Hynes, who entered the service of the United States as second lieutenant of the Third Regiment New Hampshire Volunteers in August, 1861. He was promoted to first lieutenant and quartermaster of his regiment in April, 1862, in which rank he served until October 16, 1864, when he was made captain and assistant quartermaster of volunteers. He served in this capacity until the close of the war, when he was made first lieutenant of infantry in the Regular Army and attached to the Twenty-fourth Regiment.

He died in Manchester, N. H., while on sick leave, in 1870. I was granted a pension of \$17 per month, with \$2 more per month for an infant child. In 1874 I was induced to marry again. The pension then went to the daughter and lapsed in 1884, when she attained the age of 16 years. Two years later, in 1886, your petitioner

was abandoned by her husband, after he had completely exhausted my savings, and, with my daughter, I was forced to earn a livelihood as best I could.

I obtained a divorce from my husband and have been legally granted my first husband's name. The man who abandoned me has now another family.

In consideration of my first husband's long and very faithful services, attested as they are by repeated promotions during the war and still further recognized by his transfer to the Regular Army, and, in view of my age, poverty, and declining health, your petitioner now prays that the widow's pension of \$17 per month may be restored to her, to date from the time when the pension to her daughter, Ella G. Hynes, ceased, in 1884.

LUCIA A. HYNES.

It will thus be seen that claimant was the wife of John R. Hynes during the nine years of his military service, and that she cared for the soldier's child after the death of the father and until she remarried. The second marriage was an unfortunate one, as is evidenced by the fact that the wife obtained a divorce and was legally granted the right to take her first husband's name. She is now in poverty, and appeals to Congress for a restoration of her pension.

While your committee is not ordinarily disposed to grant relief to the widows of soldiers who remarry, thus voluntarily surrendering their pensions under the law, this case presents phases of unusual merit; and we therefore report the bill back favorably, with a recommendation that it do pass, after being amended as follows:

In line 5 strike out "captain" and insert "first lieutenant." In line 6, after the word "company," insert the letter "A," and in line 7, after the word "infantry," insert the words "captain and assistant quartermaster, and first lieutenant, Twenty-fourth United States Infantry."

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 4 strike out the words "restore to" and insert in lieu thereof the words "place on."

Amend the title so as to read, "An act granting a pension to Lucia A. Hynes."



ELLEN E. NASH.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6093.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6093) granting a pension to Ellen E. Nash, have considered the same and all the evidence and respectfully report:

This bill proposes to pension at \$12 per month Ellen E. Nash, formerly Moss, of Buffalo, N. Y., who is shown by the record from the office of the Auditor for the War Department to have been paid as matron, One hundredth New York Volunteer Infantry, from November 16, 1861, to May 31, 1862, a period of six months and fifteen days. Pay voucher accompanied by descriptive list, with remark:

Mrs. Eliz. Moss left the regiment in company with her husband, Sergeant Moss, Company C, One hundredth New York Volunteers, on the 31st day of May, 1862, and has not rendered service to the regiment since that day. She will not be required to join the One hundredth New York Volunteers, not having further occasion for her services.

Dated August 4, 1862.

The following is a copy of a paper filed with the committee:

PAY DEPARTMENT, U. S. A.,
Buffalo, N. Y., November 14, 1865.

To all whom it may concern:

This is to certify that I was acquainted with Mrs. Helen Moss, wife of Wm. A. Moss, late sergeant, Company C, One hundredth New York Volunteers, who was hospital matron of said regiment from the time of its organization in 1861, and that I was acquainted with her as such hospital matron up to 31st May, 1862, at the battle of Fair Oaks, Virginia, at which time she was wounded through the shoulder by a gunshot wound, she then being in the line of duty.

She was always considered attentive to duty as hospital matron up to this time (31st May, 1862), and I have heard the surgeons frequently express themselves as highly satisfied with her labors in their department.

P. E. DYE,
Paymaster, U. S. A., Late Captain, One hundredth New York Volunteers.

Mrs. Moss filed and established a claim under the general law as the widow of William A. Moss, sergeant, Company C, One hundredth New

York Volunteers, and was pensioned as such from April 3, 1882, to June 10, 1883, when she was married to Nash, her present husband.

She filed a claim March 27, 1896, under the act of August 5, 1892, furnished evidence as to the length and character of her service, showing over six months' service, which also appears by the record, but the War Department declined to accept her employment as by competent authority, and on that ground her claim was rejected.

There is no doubt about the length and character of her service; and furthermore she appears to have received a gunshot wound through the shoulder in the service and in line of duty at the same time that her husband, Sergeant Moss, was wounded. She is now 60 years of age, poor, and disabled by hernia and rheumatism, the latter, at least, of which is claimed to be of service origin.

This seems to be clearly a meritorious claim.

The bill is reported back with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out "at the rate of twelve dollars per month."

At the end of line 6 add the following: "And pay her a pension at the rate of twelve dollars per month."

Amend the title so as to read: "A bill granting a pension to Ellen E. Nash."

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., October 1, 1897.

MADAM: You are again advised that to be entitled to pension under the act of August 5, 1892, you must have served at least six months as nurse or superintendent of diet kitchen. The records of the War Department show that you rendered service as matron with the One hundredth New York Volunteer Infantry from November 16, 1861, to May 31, 1862, a service for which no provision is made under the act. The law also requires that all persons claiming pension under the act shall have been employed by the Surgeon-General of the Army or by authority which is recognized by the War Department.

The Surgeon-General, United States Army, under date of August 7, 1896, decided that as your entire service was with the One hundredth New York Volunteer Infantry, that as General Orders No. 31, War Department, Adjutant-General's Office, June 9, 1861, provided that "women nurses will not reside in camps nor accompany regiments on a march," your employment can not be accepted as employment by "competent authority," and upon the receipt of his opinion your claim was rejected October 16, 1896, on the ground that your service was not such as is contemplated by the act of August 5, 1892, as you were not employed by competent authority, of which adverse action you were promptly informed.

Under date of September 17, 1897, the affidavits of Captains Nash and Ranerts, filed since date of rejection, were forwarded to the Surgeon-General, United States Army, with the request that they be considered in connection with former reports, and that he inform this Bureau whether the report heretofore made could be amended so as to show your employment to have been by competent authority. Under date of September 20, 1897, he decided that the additional evidence failed to warrant an opinion different from that given under date of August 7, 1896. The former rejection of your above-cited claim is therefore adhered to.

Very respectfully,

H. CLAY EVANS, *Commissioner.*

Mrs. ELLEN E. NASH,
No. 53 Glenwood avenue, Buffalo, N. Y.

RICHARD T. SELTZER.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1424.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1424) granting a pension to Richard T. Seltzer, have carefully examined the same and the evidence relating thereto and respectfully report:

This act proposes to pension, at the rate of \$8 per month, Richard T. Seltzer, of 3316 High street, Denver, Colo.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1424) granting a pension to Richard T. Seltzer, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

The bill proposes to place upon the pension roll the name of Richard T. Seltzer, late private Company F, Fortieth Regiment Missouri Volunteer Infantry, at the rate of \$12 per month. The report of the Commissioner of Pensions to the committee shows that petitioner was a pensioner under the act of June 27, 1890, at the rate of \$8 per month; that said pension was discontinued August 17, 1895, upon the ground that he was not pensionably disabled under the said act. From the Commissioner's report it would appear that the claimant had been twice examined by the Denver (Colo.) board of surgeons, and it is stated that said board (date not given) rated him at eight-eighteenths; that on another occasion, March, 1894, said board found "no disability." The record shows that the action of dropping was not taken until sixteen months subsequent to the examination that developed no disability. It is not shown what testimony, if any, was submitted by the claimant to avert the threatened loss of his pension, and it is not stated in terms that the adverse examination was the last one made.

For one of the disabilities for which this pension was granted the record shows treatment in the service, and the fact that some thirty years after it was found upon medical examination strongly tends to negative the conclusion that it has now ceased to exist. All the disabilities for which pensioned are those that are recognized as progressive in character, and while the papers before the committee do not afford positive affirmative evidence that they do now exist in a pensionable degree, they are equally defective in definitely showing that they have ceased to incapacitate the petitioner.

From a consideration of all the facts presented, the committee is not satisfied that the title, once conceded, to pension has been properly divested, and therefore recommend the passage of the bill as amended hereby.

Amend by striking out, in line 8, the word "twelve," and inserting in lieu thereof the word "eight."

The Senate bill is therefore reported back, with the recommendation that it pass when amended as follows:

In lines 8 and 9, after the word "month" in line 8, strike out the words "from the passage of this act."

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DIANA CLARK.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 2673.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2673) granting an increase of pension to Diana Clark, have examined the same and respectfully report:

This bill proposes to increase from \$8 to \$12 the pension of Diana Clark, of Miltonvale, Kans., the widow of Charles Clark, who served from June 19, 1846, to June 26, 1847, as private in Company H, Third Indiana Volunteers, Mexican war, and in the civil war from September 23, 1862, to April 1, 1863, as captain of Company B, Thirtieth Iowa Infantry, when he was discharged on tender of resignation on account of diarrhea. The certificate of disability accompanying application for discharge says:

I find him suffering with chronic diarrhea, which has existed without intermission or relief for three months. During two months of said time he has been totally unfit for military duty, and is at present so excessively emaciated and enfeebled that I deem an immediate change of climate necessary to save his life.

Soldier filed and established a claim on account of chronic diarrhea and resulting piles, and was pensioned therefor from date of discharge to May 17, 1882, when disability therefrom appears to have ceased, and his name was dropped from the roll.

He filed a claim for disease of heart, but it was rejected January 17, 1884, on the ground of no record and no medical or other satisfactory evidence in service or at discharge.

Soldier died February 29, 1888, from pneumonia. The widow filed a claim under the general law April 21, 1888, which was properly rejected February 13, 1889, on the ground that the soldier's death from pneumonia was not the result of his military service. February 25, 1892, she filed a claim under the act of June 27, 1890, which was admitted, and she is now a pensioner under that act at \$8 per month.

She was married to soldier in 1855, and is now 60 years of age.

In view of her present condition and necessities an increase to \$12 per month is recommended.

The bill is reported back with the recommendation that it pass, when amended as follows:

In line 8 strike out the word "twenty" and insert the word "twelve" in lieu thereof.

Amend the title.

REPORT
OF THE
COMMISSIONER OF THE
GENERAL LAND OFFICE
IN RESPONSE TO A RESOLUTION
PASSED BY THE HOUSE OF COMMONS
ON THE 12TH MARCH 1871

Presented by
JAMES STANLEY, ESQ.,
COUNSELLOR AT LAW,
AND
JAMES STANLEY, ESQ.,
SOLICITOR GENERAL.

LONDON:
PRINTED BY
HARRISON AND SONS, ST. MARTIN'S LANE.

Ordered by the House of Commons
to be printed.

REPORT

[In compliance with a Resolution
passed by the House of Commons
on the 12th March 1871]

The Commission on the subject of the
Land Revenue, in accordance with the
order of the House of Commons, has
the honor to report that it has been
pleased to accept of the offer of the
Commissioner of the General Land Office,
to furnish it with a report on the
subject of the Land Revenue, and to
submit to it a copy of the same.

The Commission has also been
pleased to accept of the offer of the
Commissioner of the General Land Office,
to furnish it with a copy of the
report of the Commission on the subject
of the Land Revenue, and to submit
to it a copy of the same.

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pleased to accept of the offer of the
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to furnish it with a copy of the
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to furnish it with a copy of the
report of the Commission on the subject
of the Land Revenue, and to submit
to it a copy of the same.

EUGENE A. SHAW.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8679.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8679) granting an increase of pension to Eugene A. Shaw, have examined the same and all the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$12 to \$18 per month the pension of Eugene A. Shaw, of Poplarflat, Ky., who served from December 2, 1861, to January 20, 1865, in Company C, Twenty-second Regiment Kentucky Volunteer Infantry, and was honorably discharged. He filed and established a claim under the general law for disease of eyes, and was pensioned therefor at \$2 to January 18, 1890, and \$4 until July 15, 1890, when he was allowed \$12 under the act of June 27, 1890, for loss of right forearm.

The loss of arm occurred accidentally in a sawmill in 1869, and it appears from evidence filed that in consequence of that, impairment of sight, and a disability in the other arm, he is totally disabled for manual labor.

The soldier's financial condition is very poor. It is clear that a moderate increase is justified, and the bill is reported back with the recommendation that it pass when amended, as follows:

In line 7 strike out the words, "with an increase of pension" and insert in lieu thereof the words, "and pay him a pension of."

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

Your petitioner, Eugene A. Shaw, whose post-office address is Valley, in the county of Lewis and State of Kentucky, respectfully represents that he enlisted in the service of his country December 2, 1861, in Company C, Twenty-second Regiment Kentucky Volunteer Infantry, and served faithfully and continuously until January 20,

1865, when he was honorably discharged at Louisville, Ky., and to-day I find myself a physical wreck, wholly unable to earn a living by manual labor, as, in addition to my physical disabilities, none of which I have been able to connect with the service (except the "disease of eyes," for which I was pensioned at \$4), I had the misfortune to have my good right forearm cut off by a circular saw while in the discharge of my duty endeavoring to earn an honest living; this happened on the 4th day of November, 1869, the mill being operated by Charles Goodwin, whose testimony I file herewith, also that of resident physicians, showing the extent of my disabilities and that the same are not "due to vicious habits." He further petitions and shows that he is barred from receiving a higher rate of pension than \$12, that being the maximum under the act of June 27, 1890, and he is unable and he can not connect his present physical condition (which is a total disability) as "due to the service," therefore he petitions and prays the Congress of the United States, for which he risked his life to save, to now grant him a pension of at least \$30 per month to save him from suffering, as he is left without means or property and no one legally bound to give him a support.

Witness my hand this 15th day of November, 1897.

EUGENE A. SHAW,

Late Sergeant Company C, Twenty-second Kentucky Volunteer Infantry.

STATE OF KENTUCKY, *County of Lewis, ss:*

Personally appeared before me, a notary public in and for the county and State aforesaid, William Bowman, M. D., and W. T. Burdick, M. D., well and favorably known to me, both being regular practicing physicians in Tolesboro, Lewis County, Ky., who, after being sworn in the claim of Eugene A. Shaw, late sergeant in Company C, Twenty-second Regiment Kentucky Volunteer Infantry, declare as follows:

Both have been intimately acquainted and associated with claimant for a number of years, and both having prescribed for and attended said claimant for the diseases below enumerated: Loss of right forearm, disease of eyes, and threatened loss of left arm owing to its diseased condition. None of these troubles are the result of vicious habits, as he is an honorable man and has taken remarkably good care of himself. He suffered from fracture of the left leg in 1887 (compound fracture, resulting in permanent injury of the limb) attended by Dr. Bowman. The disease of the eyes was of such a character that he fell upon the circular saw, resulting in the loss of right forearm. He, in our opinion, is entitled to pension equivalent to loss of arm, the other arm being of little use. The condition of the eyes are worse, with no hope for improvement. We are both graduates of regularly organized and recognized medical colleges; not related to claimant nor interested in the claim nor in its prosecution, nor have we been dictated to.

WM. BOWMAN, M. D.

W. T. BURDICK, M. D.

Sworn to and subscribed before me this 19th day of November, A. D. 1897; and I hereby certify that the foregoing affidavit is in the handwriting of Dr. W. T. Burdick, and that the contents of the affidavit were made known to Dr. Bowman before signing, and that I have no interest in the prosecution of the foregoing claim.

[SEAL.]

THOMAS D. WALLINGFORD, *Notary Public.*

Commission expires March 10, 1900.

STATE OF KENTUCKY, *County of Lewis, ss:*

In the matter of the petition of Eugene A. Shaw, late sergeant Company C, Twenty-second Kentucky Volunteer Infantry, for increase of pension by special act of Congress.

I am intimately acquainted with the petitioner, Eugene A. Shaw, and since about 18—; and know him to be an honest, sober, and industrious citizen. In the year 1869 I was operating a circular-sawmill on Salt Lick Creek, Lewis County, Ky., and Mr. Shaw was employed to assist, when on or about the 4th day of November, in said year, he, without any fault of his own, was terribly injured and mangled with the saw, having his right arm almost torn or cut off, between the elbow and wrist, and had to have the same amputated at once below the elbow joint; he was under the doctor's hands for quite a time, and has never, in my judgment, recovered from the shock, nor is he able physically to earn a living, and has no means of support.

His post-office address is ———.

And I further declare that I have no interest in said case, and I am not concerned in its prosecution.

C. C. GOODWIN.

STATE OF KENTUCKY, *County of Lewis, ss:*

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said affiant, and acquainted him with its contents before I executed the same.

I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me, and that he is a credible person.

[SEAL.]

W. W. WILLIM, *Notary Public.*

(Commission expires February 14, 1898.)

STATE OF KENTUCKY, *County of Lewis, ss:*

In the matter of the petition of Eugene A. Shaw, late sergeant of Company C, Twenty-second Kentucky Volunteer Infantry.

On this 27th day of November, A. D. 1897, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, H. W. Munach, aged 51 years, a resident of Valley, in the county of Lewis and State of Kentucky, whose post-office address is Valley, Lewis County, Ky., and Bartley Harrison, aged 64 years, a resident of Valley, in the county of Lewis and State of Kentucky, whose post-office address is Valley, Lewis County, Ky., well known to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows:

We are neighbors of the petitioner and well acquainted with his condition and circumstances and know him to be a worthy citizen, an ex-soldier, temperate in his habits, and industrious; that for several years past he has been failing in health and had the great misfortune to get his right forearm torn off, or cut off, in a circular-saw mill, as we understand it, and has not and is not now able to earn a living by manual labor, as he seems to be completely broken down in health and has no means or property or any person or persons legally bound to give him a support, and without assistance and liberal help in his present condition he must suffer.

We further declare that we have no interest in said case and we are not concerned in its prosecution.

HENRY W. MUNACH.
BARTLEY HARRISON.

STATE OF KENTUCKY, *County of Lewis, ss:*

Sworn to and subscribed before me this day by the above-named affiants, and I certify that I read said affidavit to said affiants, and acquainted them with its contents before they executed the same.

I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution; and that said affiants are personally known to me, and that they are credible persons.

[SEAL.]

W. W. WILLIM, *Notary Public.*

(Commission expires February 14, 1898.)

GARDNER DODGE.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3567.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3567) to remove the charge of desertion against Gardner Dodge, submit the following report:

Gardner Dodge was a private in Company L, Ninth Iowa Cavalry Volunteers. At the time of his desertion he was only about 16 years of age. His conduct was good from the time of his enlistment in 1863 until March 22, 1865, when he deserted. On April 3, 1865, he returned to his company. Charges were preferred against him and he was sentenced by a court-martial May 11, 1865, to be shot. This sentence was modified by the commander of the department of Arkansas to dishonorable discharge and ten years' imprisonment. On August 9, 1865, he was released from confinement, and on August 10, 1865, was dishonorably discharged from the service.

The soldier filed his affidavit with the Secretary of War, setting forth that he was in the guardhouse and the guards told him if he wanted to go they would let him escape, and that unless he escaped he would be court-martialed. He took their advice and escaped, and after a few days was returning to his regiment when he was captured by bushwhackers.

It appears from affidavits on file that this soldier was then a mere boy, only 16 years of age, and that his conduct was due, in a great measure, to the indiscretion of his extreme youth. Since his discharge he has borne an excellent character, and his good character has been vouched for by a large number of people of the highest character and standing.

His captain, J. G. Rockafellow, testified that the soldier was a mere boy, and that it was the universal belief in his company that the sentence and conviction were unmerited and unjust; that he was not represented by any attorney and made no defense whatever, and was given no opportunity to vindicate himself; that the soldier was not in fact a deserter,

but had left his command temporarily, and was returning to his command when he was captured; that he did not leave his command with the intention of deserting, and that he was in fact returning to his regiment when he was captured by the enemy. He was turned over to his command soon after his capture. His captain further swears that he believes the conviction was unjust and that the charge of desertion should be removed.

Norris Richardson, A. J. Cottrell, Martin Beason, Charles H. Jennings, W. R. Reynolds, James Early, A. B. Brobst, M. J. Pringle, James Smits, James R. Gentry, D. M. Wert, and Joseph Logaton all depose that they were members of the same company, and they all testify to substantially the same facts and opinions as Captain Rockafellow. Said Norris Richardson was first lieutenant of said company.

Thirty-five of the soldier's comrades join in a petition requesting the removal of the charges.

A petition signed by a very large number of the leading citizens of Jasper County, Iowa, has been presented, in which the excellent character of Mr. Dodge is certified.

In view of the extreme youth and good character of the soldier, and in view of the opinion of his captain, lieutenant, and comrades, that injustice had been done him, we think that the stigma attached to his name by the charge of desertion, and by the conviction and sentence, should be removed, and we therefore recommend the passage of the bill.

Your committee have carefully considered this case and the proceedings of said court-martial, and, in view of all the facts and circumstances in this case, it is apparent that cruel injustice was done this youthful soldier, who, by reason of his extreme youth could not have been held to military service, and should never have been mustered into the service.

It is only simple justice to authorize the Secretary of War to issue to him an honorable discharge as of the date of the sentence of the court-martial.

Your committee have amended the bill accordingly, and as amended report it back to the Senate and recommend its passage with the following amendment:

Strike out all after the word volunteers, in line 6, and insert the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

CARL F. W. STOLLE.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 1798.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1798) entitled "A bill to remove the charge of desertion against Carl F. W. Stolle, of Iron Ridge, Wisconsin," beg leave to submit the following report, and recommend that said bill do pass with the following amendment:

Insert after the word company, in line 9, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

As shown by the records of the War Department, Carl F. W. Stolle (also borne as Carl and William Stolle), was enrolled December 14, 1861, and mustered into service January 24, 1862, as a private in Company K, Third Wisconsin Cavalry Volunteers, to serve three years. He reenlisted as a veteran volunteer February 29, 1864, to serve three years, and appears to have served faithfully from the date of his enlistment to June 18, 1864, when he is reported as having deserted at Madison, Wis. He received a veteran furlough May 14, 1864, and never returned therefrom to his regiment, which remained in service until October 27, 1865.

In an application for removal of the charge of desertion Stolle declared, January 27, 1896, that he had made an agreement with his captain, Ernst Off, to reenlist on condition that applicant's son, then about 19 years of age, and of the same size, height, and name as applicant, should take his place at the expiration of the veteran furlough, and serve out his enlistment; that he entered into this agreement with his captain for the reason that his wife had written him that their house had been destroyed by fire, and that he should come home and erect another; that he went home, and at the expiration of his veteran furlough his son, Carl F. W. Stolle, jr., took his (applicant's) uniform, reported at

Madison, Wis., and went with the regiment to the South, and did duty in applicant's place; that about two or three months later his son took sick and died in some hospital at Little Rock, Ark.

Ed. Kasten and Adolph Muster testified, December 30, 1895, that a young man calling himself Carl F. W. Stolle, and claiming to be the son of applicant, came to the company, and it was rumored around camp that he took applicant's place; and that they knew of no agreement between the captain of the company and applicant.

F. Achtenhagen testified, January 16, 1896, that he was quartermaster-sergeant of Company K, Third Wisconsin Cavalry; that on his way home on veteran furlough he had a conversation with applicant, who informed him that he had arranged with Captain Off that his (applicant's) son should take his place in the company for the remainder of his term of enlistment; that to his (affiant's) certain knowledge applicant's son reported for duty and served until he was taken sick and sent to some hospital in Little Rock, Ark.

George Bub testified, January 16, 1896, that he was a tent mate of applicant, and heard him say that his wife had written him that their house was destroyed by fire, and that he should come home and build another; that on their way home, on veteran furlough, he heard applicant say that he had the consent of his captain to stay home and send his son in his place to serve out his term; that on the expiration of the veteran furlough the veterans reported at Madison, Wis., and Carl F. W. Stolle, jr., reported there in place of his father, was accepted, and went with the veterans to St. Louis, where he did the same duty as the rest.

M. C. Uehling, a comrade, testified, February 1, 1896, that it was common talk in the company that applicant would reenlist and then have his son serve the unexpired term of his enlistment; that the son went with the veterans at the expiration of the veteran furlough, and, so far as affiant knew, did duty with the rest until he was taken sick.

Christopher Jaeger, a comrade, testified, January 16, 1896, that applicant's son took his father's place and accompanied the veterans on their return from veteran furlough; that he stayed with them and drew rations; that some time thereafter he was taken sick and sent to hospital at Little Rock, Ark., where, affiant had been informed, he died.

It appears that the witnesses were all members of Company K, Third Wisconsin Cavalry; also, that the veterans of this company were furloughed from Madison, Wis., May 14, 1864, for thirty days; that at the expiration of the furlough they rendezvoused at Madison, left the latter place June 16, 1864, and arrived at St. Louis June 18, 1864; that nothing has been found of record to show that Carl F. W. Stolle, jr., was a member of this company and regiment, or that he was accepted as a substitute for his father. It does appear, however, that under date of August 20, 1864, application was made to the medical director, Department of Arkansas, for the admission of a civilian named Carl Stolle, a servant of Maj. John C. Schroeling, Third Wisconsin Cavalry, to a hospital for treatment; that the man was thereupon admitted to the general hospital at Little Rock, Ark., with typhoid fever, and that he died at that hospital September 18, 1864.

Upon inquiry at the office of the Auditor for the War Department, it has been ascertained that William Stolle was paid as a civilian servant of Major Schroeling, Third Wisconsin Cavalry, for the months of July and August, 1864; that the application was denied on the ground that the soldier did not serve faithfully until May 1, 1865, and that, according to his own statement, he was not prevented from completing his term of enlistment by reason of disability incurred in line of duty, and

because the case does not come within any of the provisions of the act approved March 2, 1889.

In an affidavit made April 24, 1896, John C. Schroeling, county clerk of Ozaukee County, Wis., states that in 1864 he was major of the Third Wisconsin Cavalry, and served as such until the close of the war; that Carl F. W. Stolle was a private in the regiment and served as such until about the 29th day of February, 1864, when he reenlisted as a veteran volunteer and was given a furlough to return to his home in Wisconsin; that deponent was informed, and believed, that when the said Stolle was returned to his home it was agreed between him and the captain of his company that he might send back his son to serve for him in his place in the regiment; that in pursuance of such understanding said Stolle remained at his home and sent back his son to the regiment; that the son, after his return to the regiment, performed similar duty to that which had been performed by his father prior to his enlistment, and that the son continued to perform such duty until he was taken sick and died, on or about September 18, 1864.

The soldier, in an affidavit made February 22, 1896, states that he had no knowledge that his son had been refused to serve his time out when the son reported; that he always thought the son was accepted in his place, and that he heard that his son did the same as he himself had done; that is, attending to the horse of Maj. John C. Schroeling, for which duty the soldier himself was detailed after coming down to the front.

Again, in an affidavit made by the soldier March 28, 1896, he states that he was with the regiment from enlistment until veteran furlough, except for about two months while he was in regimental and general hospital at Fort Leavenworth, owing to having three ribs broken by being thrown from his horse in action at Van Buren; that he was in battles and skirmishes as follows: Coon Creek, Prairie Grove, Perryville, Cane Hill, Van Buren, Fort Smith, Marysville, and Choctaw Nation, Ind. T.; that he had to tend Major Schroeling's horse and at every important engagement had to be in front; in one engagement took two rebels prisoners while they were running for their lives, and at another time took a prisoner who had a fine revolver and turned prisoner over and took revolver and gave it to Capt. Ernst Off.

In an affidavit made February 15, 1896, Henry Box, of Jefferson, Wis., 58 years of age, states that the soldier was a private in Company K, Third Wisconsin Cavalry; was with the company until April, 1864; reenlisted at Van Buren, Ark., about December, 1863; was enrolled in February, 1864, at Little Rock, Ark.; went on a furlough in latter part of April, 1864; that affiant went with soldier to Madison, Wis., where they had to report again after expiration of time, but did not see Stolle again; that his son came in his place and was accepted by captain; that he went on duty for about a month and was taken sick with heart fever, of which he died soon afterwards in regimental hospital at Little Rock, Ark.

In affidavits dated, respectively, February 18, 29, and March 5, 1896, Wilhelm Schmidt, aged 46; Carl Deutschman, aged 78; F. W. Sydo, aged 49, and Ernst Dowe, aged 54, state that they have been acquainted with the soldier since 1856; that they know when he enlisted in 1861; that his house was destroyed in February, 1864, by fire; that his family sought shelter with the neighbors; that in the latter part of May, 1864, the soldier came home to build another house, and that his oldest son, then about 19 years of age, took his father's uniform, went South, and took his father's place in the Army, and that the son so informed the

affiants before he left; that the son did not return, and the news came that he had died.

Your committee submit that the proof in this case abundantly shows that, however irregular the method adopted to have the son serve out his father's time, it is clear that both father and son so intended it, and that while the father remained at home after the expiration of his furlough the son did actually return with the regiment, to serve in his father's stead, and performed the same duty which his father did, until the son was taken sick, and that the son finally died in the service. The circumstances are such as to conclusively refute not only the charge of an actual desertion, but also of any intention to desert on the part of the father. The fact that, according to the report of the War Department, the son drew civilian's pay as the servant of Major Schroeling, instead of a regularly mustered soldier's pay, is due to the failure, or omission, of the officers to give the son his proper status in the service and on the rolls of his company, rather than any act of the father or son, neither of whom should be held responsible for the anomaly presented by the record in this case.

The beneficiary in this bill served his country for two years and a half, sustained an injury in battle of three broken ribs, was in several engagements, and finally gave his son as a sacrifice in his country's cause. Therefore, your committee believe him entitled to the relief asked for.



JOHN P. HENDERSON.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 8506.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 8506) for the relief of John P. Henderson, have had the same under consideration and beg leave to report as follows:

John P. Henderson was enrolled March 5, 1864, and mustered into service March 15, 1864, as a private in Company H, One hundred and twenty-fourth Indiana Infantry, to serve three years. He was captured by the enemy August 25, 1864, in front of Atlanta; was confined at Florence, S. C., whence he escaped November 26, 1864; was sent from Fort Columbus, New York Harbor, to Annapolis, Md., January 26, 1865; reported at Camp Parole, Maryland, January 27, 1865, and was transferred to College Green Barracks February 1, 1865. He appears to have been furloughed some time during the month of February, 1865, but failed to return from that furlough.

The committee further report that the testimony shows that at the time he was furloughed he went to Detroit, Mich., and from there to Lapeer, Mich.; then back to Detroit. From there he went to Chicago, to which place his aunt had removed while he was a soldier, and remained there until July, 1865. Before he enlisted his parents were both dead, and he was not 16 years of age, and the aunt he went to Chicago to find had brought him up since the death of his parents. At the time he was granted the furlough, and for some years afterwards, he was sick with the scurvy and with rheumatism and general debility, and at different times since, and by 1870 he had lost nearly all of his upper teeth by reason of the scurvy. In July, 1865, the war was over, and his uncle, James Platt, was going to California, and took said John P. Henderson with him, thinking the climate would restore him to health. In 1886 or 1887 he applied to and received from the adjutant-general of Indiana a certificate of service, which he filed with his pension application.

The committee further report that the testimony shows that when he returned on a furlough and succeeded in finding his aunt, who had

brought him up, he was not aware and did not know (the war being about over when his furlough expired, which was by the latter part of July, 1865), that it was necessary for him to return; that his aunt and uncle and friends all told him that nothing was necessary to be done, and that the Government had no further use for him and did not want him, and, being a boy and not knowing anything about military rules or order under such circumstances, he listened to and took the advice of his uncle and aunt and friends and went to California, where he remained for some years.

Your committee submit, in view of the testimony, that John P. Henderson is entitled to the relief prayed for, and the bill is therefore reported favorably, with a recommendation that it do pass with the following amendment:

Add after the word "discharge," in line 8, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.



JACOB COVERT.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 6930.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6930) entitled "A bill for relief of and to correct record of Jacob Covert," recommend that the bill do pass with the following amendment:

After the word "sixty-two," in line 8, add the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The points of evidence submitted are as follows:

Petitioning for the removal of the charge of absence without leave and for honorable discharge, the officer testified, August 18, 1888, as follows:

He enlisted in the Army on the 6th of July, 1861, and was first lieutenant Company D, Twenty-fourth Regiment Indiana Volunteer Infantry. In June, 1862, he was attacked with a severe cold and an affection of the throat and lungs, accompanied with asthma. About the latter part of June, 1862, he tendered his resignation to Col. Wm. T. Spicely, who approved and recommended same, and which was also approved and recommended by Gen. Alvin P. Hovey, commanding brigade, and by Gen. Lew Wallace, commanding the division, and forwarded to General Grant at or near Corinth, Miss. He continued to grow feeble and became totally unfit for service. About the 18th of August, 1862, while the command was encamped near Helena, Ark., and while he was expecting daily the receipt of his resignation, a steamer bound for Cincinnati landed near the camp, and, with the knowledge and consent of Colonel Spicely and the officers and men, he took passage on the steamer, having no time to procure a furlough.

Colonel Spicely assured him there was no doubt but that his resignation would be returned all right, and that he would forward it to him, and also intrusted to him letters and papers as a means of protection from interference. He arrived home about the 12th of August, 1862,

was confined to his bed, and was unable to leave his room until the middle of October, and continued in delicate health during the entire winter. It was impossible to return to his command on account of his sickness, and it was the general impression of his family and friends that he would not survive. His resignation was never heard from, and it was supposed to have been lost on one of the sunken transports plying between Memphis and Corinth.

Gen. Alvin P. Hovey, in correspondence with Adjutant-General Drum, August 20, 1888, says:

I inclose petition of Jacob Covert, who was first lieutenant Company D, Twenty-fourth Regiment Indiana Volunteer Infantry, in the late rebellion. I was in command of the Department of Eastern Arkansas at the time he tendered his resignation, and approved the same. I believe all the statements in his petition are true, and I earnestly request that his record may be corrected in accordance with the prayer of his petition, so as to remove the charge of absence without leave.

August 25, 1888, Adjutant-General Drum returned petition, etc., with statement that "relief could only be had by special legislation."

August 26, 1888, General Hovey forwarded petition, correspondence, etc., together with copy of H. R. 6106, Fiftieth Congress, first session, which he thought would afford the relief asked for when acted upon by the Senate.

Applying for relief under the above bill, H. R. 6106, Fiftieth Congress, first session, on April 22, 1897, Mr. Covert further testified as follows:

That in leaving his command he was not in the slightest degree influenced by a desire to conceal himself or by cowardice or disloyalty, but with the confident belief that his resignation had been accepted by General Grant and would, but for the unusual delays caused by the existing state of active war, have been returned, and because he was totally unfit to continue in service, and never during the progress of the war recovered so as to do active service, and has never fully recovered from the disease contracted in the service and from which he was suffering at the time of leaving the regiment as aforesaid. That his physician vigorously protested against his attempting to reenter the service, as under the most favorable circumstances he was utterly unable to stand the exposure and hardships necessary in the field or camp.

George Barber, formerly a resident of Washington, Ind., but now a resident of Washington, D. C., on April 23, 1897, testifies as follows:

That he was a member of Company D, Twenty-fourth Regiment Indiana Volunteer Infantry, and well acquainted with Lieutenant Covert; knew him before the war, served with him, and kept up the acquaintance since, and that he is the same who is now making application for amendment of his army record. Have carefully read his petition and believe the contents thereof to be true. Do not remember the details of the matter set forth, but do remember that he was sick and tendered his resignation and left the regiment while at Helena, Ark., for his home in Indiana, and did not return. This occurred in August, 1862. I further state that his leaving or absenting himself from his command was not due to disloyalty or cowardice, but, on the other hand, said Lieutenant Covert was a good and loyal soldier, an efficient officer, and respected throughout the company and regiment, and his reputation for truth and veracity unquestioned.

George W. Colbert, of London, Ky., on January 29, 1898, testifies as follows:

That he was a member of Company D, Twenty-fourth Regiment Indiana Volunteer Infantry. Was intimately acquainted with Lieut. Jacob Covert, who was an excellent officer and a favorite with the men of the company. Remember that Lieutenant Covert tendered his resignation while at Memphis, Tenn., in the latter part of June or 1st of July, 1862, and that he left the regiment at Helena, Ark., in August, 1862; that his leaving was not through cowardice or disloyalty; that he was a good soldier and officer, but at the time was in very poor health.

ROBERT MCFARLAND.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 360.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 360) for the relief of Robert McFarland, report the same back to the House with the recommendation that the bill do pass with the following amendments:

Strike out the words "with pay and bounty," in line 7.

Also strike out the word "and" before the word "to," in line 8.

Insert after the word "sixty-six," in line 8, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

A bill for the relief of this same soldier was reported favorably in both the Fifty-first and Fifty-fourth Congresses.

The facts in this case are fully set forth in the House report on this bill, which are as follows:

The claimant in this case enlisted in Company B, Fifth Illinois Cavalry, in August, 1861, and served faithfully with his regiment and company until August, 1865, in such a manner as to win the respect of his comrades and the commendation of his officers.

In July, 1865, a portion of his regiment was ordered to Texas to do duty along the frontier. Some of his comrades were disposed to question the right of the Government to thus keep them in service after the war was closed, and some discontent was manifested among the command, but was not participated in by McFarland.

While proceeding up Red River McFarland was ordered by an officer of his command, but not of his company, to take a detail of three men and make an arrest of some of the more turbulent of his comrades. McFarland attempted to execute the order, but found his force too small, and so reported to the officer giving the command. This was taken by the officer as a refusal to obey, and, although he again went back and attempted to make the arrest, he, with his detail, was taken by the order of such officer and placed under arrest in the hold of the vessel, and subsequently he was tried, convicted, and sentenced to the loss of all pay, and confinement for three years at the Dry Tortugas. This evidence all appears in affidavits on

file made by officers and men, a part of which is added to and made a part of this report, together with the report of the Adjutant-General.

Your committee believe that a gross injustice has been done this soldier; that he was more sinned against than sinning. His record as a soldier up to this time was an enviable one. He had served his adopted country faithfully through almost the entire period of the war; had won general esteem and confidence, and your committee believe that the punishment inflicted was terribly unjust and should be righted as far as can be at this late day.

We have added the report of the Adjutant-General and a part of the evidence, which cover all the facts of the case, and recommend the passage of the bill.

Case of Robert McFarland, late of Company B, Fifth Illinois Cavalry Volunteers.

He was enrolled August 27, 1861, and mustered into service November 8, 1861, a private, Company B, Fifth Illinois Cavalry Volunteers; reenlisted as a veteran volunteer January 1, 1864, and is properly reported on rolls to include June 30, 1865. Company muster-out rolls, dated October 27, 1865, reports him "discharged by general court-martial August 7, 1865." (Period of each enlistment three years.)

He was tried by general court-martial on the charges of "disobedience of orders" and "mutinous conduct prejudicial to good order and military discipline," found guilty, and sentenced to be dishonorably discharged the service, with loss of all pay and allowance due or to become due, to have his head shaved by the provost-marshal, and to be confined at hard labor, in any military prison, to be designated by the commanding general, for three years. Proceedings, findings, and sentence approved and promulgated, and Dry Tortugas designated as place of confinement by General Orders, No. 13, Headquarters Cavalry, Alexandria, Va., of August 4, 1865.

He arrived at Fort Jefferson, Fla., September 13, 1865, and was ordered to be released therefrom per Special Order, No. 49, paragraph 12, War Department, Adjutant-General's Office, of February 5, 1866, reported to chief mustering officer, Illinois, and was discharged the service October 30, 1866, to date October 27, 1865.

The order releasing him was based on a report from the commanding officer of Fort Jefferson to the effect that he and others mentioned by good conduct while in confinement were worthy of executive clemency.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *March 13, 1890.*

The SECRETARY OF WAR.

In the matter of application of Robert McFarland, late corporal in Company B, Fifth Illinois Cavalry, for honorable discharge from the service of the United States.

L. D. McKee, James Horn, Henry Gransley, and J. P. Light, all of the county of Coles and State of Illinois, being duly sworn, depose and say:

That we were each and all members of Company B, Fifth Illinois Cavalry, in the war of the rebellion; that we well and personally knew Corporal McFarland, of said company and regiment, who enlisted in the month of September, 1861, and who reenlisted as a veteran some time about the spring of 1864, and who thereafter served in said company and regiment until about the month of July, 1865. We and each of us, from personal knowledge, know that said Robert McFarland was a brave soldier and prompt in the performance of his duties; that he was in all of the engagements and skirmishes in which his regiment was engaged as such; that he was never absent from his command during the said time of his service excepting when at one time on sick furlough to his home, and when at home on veteran furlough.

That about the first days of July, 1865, the said regiment was ordered from Memphis, in the State of Tennessee, to the State of Texas, as we believe and as we then understood; that a battalion of said regiment in which said Company B was went on board boat at Memphis and was transported to the mouth of Red River, Louisiana, where they disembarked for a time. That there were no commissioned officers belonging to said Company B present with said company or in command thereof, very many of said command claiming that their term of enlistment had expired by reason of the close of the war and were very unwilling to go, as ordered, to the State of Texas. A number of members left the command and returned to their homes before the battalion embarked at Memphis. Many of the members of said battalion who embarked

as aforesaid were discontented and angry for the cause aforesaid. On the arrival of the battalion at the mouth of Red River and their disembarking the dissatisfaction led some of them to disobedience of orders of Captain Clark, of said regiment, commanding battalion, in which said Robert McFarland took no part.

That said Captain Clark ordered said Corporal McFarland, with three others, as a special detail to arrest the members of said battalion referred to who had disobeyed orders; that said McFarland attempted to make the arrests as ordered, and that the offenders refused to submit to the arrest, and the great body of the men on board the boat, comprising said battalion, gathered together around the offenders and said detail and declared that the offenders should not be arrested and refused to permit the guards to do so. This occurred on the lower deck of the steamer, whereupon the said McFarland went to the cabin of the boat, where Captain Clark, commanding, was, and reported the facts to him, and that he was unable to make the arrests, whereupon the said Captain Clark, commanding, ordered the said McFarland and the other guards referred to under arrest, and to be placed in confinement in the hold of the boat; that this was about the month of July, in the State of Louisiana, the heat being intense on any part of the boat, but almost unendurable to a human being in the hold thereof; that we understand that said McFarland was charged with resisting arrest; he did demur to being placed in the hold of said vessel in confinement, but made no resistance other than to protest against being placed in such a place of confinement, and he was placed there and there confined without physical resistance or violence of any kind on his part; that thereafter, in the summer of 1865, charges were preferred by the captain, as we understood and believe, against said McFarland by said Captain Clark. On such charges and specifications he was tried by court-martial at Alexandria, in the State of Louisiana, in the summer of 1865, and on such charges and specifications, or some of them, was found guilty, whereupon he was sentenced to imprisonment on the island of Dry Tortugas for a term of three years and to be dishonorably discharged from the service of the United States, with loss of all pay and allowances; that about the month of August, 1865, said McFarland was sent to Dry Tortugas, where he remained in confinement for about seven months, when he was released and he returned home.

We, and each of us, state that the facts stated herein, up to the time of said McFarland being sent to the Dry Tortugas, are stated from our own personal knowledge and observation; that we knew that he was a good and brave soldier; that we saw and were present at the occurrence of the events leading to his arrest and imprisonment, and believe that it would have been impossible for said McFarland with his detail of guards to have made the arrests ordered, at least not without causing very serious disturbance among the members of said battalion, if he had been able to secure their arrest at all; that said McFarland did not refuse to make said arrests, but that he did make report of the condition in which he found things and the difficulty he met in making said arrests to said Captain Clark as aforesaid.

We, and each of us, further state that we have not seen said Robert McFarland since he was sent from Alexandria, La., to the Dry Tortugas; that we are not related to him in any way, and that we have no interest, direct or indirect, in securing for him an honorable discharge from the service of the United States other than in securing what we believe to be right and just toward a comrade who had so faithfully and for so long a time done his duty as a soldier to his country, and who we believe to be innocent of any intended disrespect toward or disobedience of orders of a superior officer.

We, and each of us, after the lapse of twenty-five years, state that we did then, have ever since, and do now believe that said Robert McFarland was most cruelly and most unjustly wronged and hardly dealt with in being deprived of the good name and fame which he had so faithfully earned by his long service and by the forfeiture of the pay and allowances, meager as they were, which were due to him from the Government.

J. P. LIGHT.
H. GRANSLEY.
L. D. MCKEE.
JAMES P. HORN.

Subscribed and sworn to before me this 3d day of October, A. D. 1889.

JOHN S. GOVERYEAR,
County Clerk.

STATE OF ILLINOIS, *Moultrie County*, ss:

The above affidavit was subscribed and sworn to before me by the above-named J. P. Light this the 12th day of October, A. D. 1889.

CHAS. SHERMAN,
County Clerk of *Moultrie County*, Ill.

AMENDING SECTION 3545, REVISED STATUTES, ETC.

APRIL 11, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. Charles W. STONE, from the Committee on Coinage, Weights, and Measures, submitted the following

REPORT.

[To accompany H. R. 7088.]

The Committee on Coinage, Weights, and Measures, to whom was referred the bill (H. R. 7088) "to amend section thirty-five hundred and forty-five of the Revised Statutes, and for the payment of deposits of foreign gold coin of not less than five thousand dollars in value without melting," respectfully submit the following report:

The purpose and propriety of this bill are fully set forth in an extract from a letter from the Secretary of the Treasury, under date of January 17, 1898, as follows, viz:

To authorize the receipt of foreign gold coin in sums of \$5,000 in any single deposit and to pay for the same without previously melting. Such coin to be held as bullion and paid out for export in exchange for United States coin.

When importations of gold are made it frequently occurs that large amounts of the same consist of foreign gold coins. Under the law as now in force, upon these coins being deposited at the United States assay office in New York, and the mint at San Francisco, they are immediately melted, notwithstanding the fact that the amount frequently consists of new coins.

It would appear desirable that authority be given the Secretary of the Treasury to hold, at his discretion, such foreign gold coin as bullion, and when gold is required for export, that the same be paid out to supply the demand as far as may be deemed desirable.

The result of this would be a saving to the depositor of the cost of melting, and to the Government, in case of deposits at the United States assay office, New York, the expense of transfer to and the cost of coinage at the mint, Philadelphia, and it is more than probable that when gold is required for export these coins would command a premium over and above their nominal value in United States money.

This recommendation of the Secretary of the Treasury is in accordance with the suggestion of the Director of the Mint in his last annual report. In addition to the reasons for the proposed action, as given by the Secretary of the Treasury, the Director of the Mint also states:

Both the Bank of England and the Bank of France, in case of importation of American gold into those countries, purchase the same by weight and carry the amount as part of the bank's gold assets. When gold is required for export to the United States the demand is, as far as practicable, met by the Banks of France and England selling United States gold coin.

This bill would place it in the power and discretion of the Secretary of the Treasury to pursue the same course in regard to English, French, and other foreign gold coins instead of sending them to the melting pot, as is obligatory under existing law.

The object and effect of the bill are simply in the line of economy and saving to the Government. It has no purpose beyond that, and that purpose seems to your committee an entirely proper and desirable one, and they therefore recommend that the bill do pass, but with the following amendments, viz:

Strike out all after the word "coin" in the seventeenth line, down to and including the word "deposit," in the eighteenth line.

And also strike out the words "for export" in the twenty-first line.



DANIEL G. GEORGE.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 506.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 506) granting an increase of pension to Daniel G. George, have carefully examined the same and the evidence relating thereto and respectfully report.

This bill proposes to increase from \$12 to \$30 per month the pension of Daniel G. George, of West Hampstead, N. H.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 506) granting an increase of pension to Daniel G. George, have examined the same and report:

Claimant enlisted September 16, 1861, in Company D, First Massachusetts Cavalry, and served in that regiment and in the United States Navy continuously until April 26, 1866. He was an especially brave soldier, and received a medal of honor for participation in the destruction of the Confederate ram *Albemarle*.

During his services soldier received a comminuted fracture of the thigh, the bone being broken into eight pieces. This resulted in a serious shortening of the limb and a permanent disability. He is drawing a pension of \$12 per month, several applications for increase having been rejected. He is now suffering from partial paralysis of the right side and organic heart disease. The paralysis has also practically destroyed the sight of one eye. He is entirely unable to perform any manual labor, and at times needs the care and attention of others.

The following transcript from the records of the office of the adjutant-general of New Hampshire, and medical affidavits, are of interest in the case:

STATE OF NEW HAMPSHIRE, ADJUTANT-GENERAL'S OFFICE,
Concord, March 22, 1897.

I certify that the official records of this office show that Daniel G. George enlisted on the 16th day of September, 1861, and was mustered into the service of the United States as a private in Company D, First Regiment Cavalry Massachusetts Volunteers, on the 17th day of September, 1861, for the period of three years.

He is also officially reported as appointed first sergeant February 8, 1863; reenlisted January 1, 1864; transferred to United States Navy May 7, 1864, as an ordinary seaman, under the name of William Smith; served on the U. S. S. *North Carolina* and *Chicopee*; volunteered from *Chicopee* as one of the crew of *Picket Laurel, No 1*; captured October 27, 1864, at Plymouth, N. C.; paroled; served on U. S. S. *Hartford*

and *Chicopee*; discharged, services no longer required, April 26, 1866, as cockswain from *Chicopee*; received medal of honor for participation in the destruction of the rebel ram *Albemarle* October 27, 1864, at Plymouth, N. C.

A. D. AYLING, *Adjutant-General*.

MEDICAL AFFIDAVIT.

STATE OF MASSACHUSETTS, *County of Essex, ss:*

In the matter of claim for pension of Daniel G. George, Company D, First Massachusetts Cavalry and United States Navy.

On this 20th day of February, A. D. 1896, personally appeared before me a notary public in and for the aforesaid county, duly authorized to administer oaths, Franklin H. Allen, M. D., a resident of Haverhill, in the county of Essex and State of Mass., well known to me to be reputable and entitled to credit, and who, being duly sworn, declared in relation to aforesaid case as follows:

I have known the said Daniel G. George about 18 years. Feb. 15, 1897, I examined the said Daniel G. George and found a partial paralysis of right side, partial loss of vision, right leg 2 inches shorter than left leg, which he informs me was contracted in the service. From the result of my examination I think he is unable to perform any manual labor. This is my own handwriting.

My post-office address is Haverhill, Mass.

FRANKLIN H. ALLEN, M. D.

STATE OF MASSACHUSETTS, *County of Essex, ss:*

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said affiant, including the words erased, and the word "was" added, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me, and that he is a physician of good standing in Haverhill, Mass.

[SEAL.]

JARED M. DAVIS, *Notary Public*.

HAMPSTEAD, N. H., *February 22, 1897.*

I have examined Daniel G. George and find the following: Partial paralysis of right side; right eye nearly useless, owing to said paralysis; right leg $1\frac{3}{4}$ inches shorter than left; heart disease. I find these disabilities such that he can not perform manual labor.

ELMER E. LAKE, M. D.,
Hampstead, N. H.

FEBRUARY 23, 1897.

HAMPSTEAD, N. H., *Rockingham County, ss:*

Personally appeared the above-named, Elmer E. Lake, M. D., and made oath that the above certificate, by him signed, was true.

Before me:

[SEAL.]

CHARLES W. GARLAND, *Notary Public*.

Your committee are of opinion that in view of the long and exceedingly meritorious services of this soldier, and his present deplorable condition, the technicality as to whether paralysis is the result of the severe injury received in the service may well be waived and the increase asked for be granted. The bill is therefore reported back favorably, with a recommendation that it do pass.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 8, after the word "pension," insert the words "at the rate of."

IDA EMMOTT.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3026.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 3026) granting a pension to Ida Emmott, have carefully examined the same and the evidence relating thereto and respectfully report.

This bill proposes to pension, at the rate of \$12 per month, Ida Emmott, of Manchester, N. H.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 3026) granting a pension to Ida Emmott, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably to the House of Representatives. The report is as follows:

The claimant under this bill is the invalid and dependent daughter of the late Thomas Emmott, private in the Seventh Battery of Massachusetts Volunteer Light Artillery. She has been of unsound mind since infancy, is totally deaf and partially blind, and utterly dependent upon others for support. The following statement from Bishop Bradley, of Manchester, N. H., sets forth the essential facts in the case:

"To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled:

"Respectfully represents Dennis M. Bradley, of Manchester, in the county of Hillsboro and State of New Hampshire: That he is the legal guardian of Ida Emmott and Nellie Emmott, children of Thomas Emmott, who was a private in the Seventh Battery of Massachusetts Volunteer Light Artillery from September 24, 1862, to June 30, 1865, and who was honorably discharged the service; that about July 30, 1890, as guardian as aforesaid, he made an application in due form for a pension for his said wards, under the provisions of the act of June 27, 1890; that all evidence required in support of said claim was furnished to the satisfaction of the pension authorities in Washington, on which a pension of \$2 per month, under certificate No. 280155, was awarded to the said Nellie Emmott about June 17, 1892, to continue until she attained to the age of 16 years, which time has long since passed; that he set forth in his said declaration in behalf of his said ward, Ida Emmott, that she was of unsound mind and permanently helpless, as provided in section 3 of said act of June 27, 1890, but that his claim in this behalf was not allowed by the pension authorities, on the ground, as your petitioner is informed and believes, that his said ward was more than 16 years of age at the time of filing said claim, or, in other

words, that a claim in her behalf should have been filed before she came to the age of 16 years. As to the mental unsoundness and probably permanently helpless condition of the said Ida Emmott, he refers particularly to the certificate of the late W. W. Wilkins, M. D., on file in said case, and who at the time was president of the Government board of examining surgeons in this city.

"Your petitioner believes it to be the true intent and meaning of the act of June 27, 1890, to provide relief in cases like that of his ward, for it is provided in the said third section of said act that a pension granted for said cause shall continue for life, or during the continuance of such disability.

"The said ward, Ida Emmott, then was, and still is, mentally deficient and permanently helpless, at least as far as one can at present foresee, and unable to perform any labor by which she can earn a support. That she is wholly dependent upon others for the necessities of life, and that no one is legally bound to her support. He annexes copies of a part of the evidence on file in his said claim in the Pension Bureau, which may be more fully verified by reference to the claim itself. Therefore he respectfully requests that your honorable bodies will grant relief to his said ward, Ida Emmott, by special act of Congress, to the end that her name may be placed on the pension roll of the United States at the rate of \$12 per month. She is totally deaf and partially blind."

This claim comes under the head of a class for which pensions have heretofore been granted, to wit, the permanently helpless children of soldiers, the only requirement in the case being that such helplessness shall have existed from early infancy. In this case every essential requirement is met, and your committee therefore report the bill back favorably, with a recommendation that it pass after amending the title so as to read as follows: "A bill granting a pension to Ida Emmott."

The bill is therefore reported back, with the recommendation that it pass.

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JOSEPH PORTER.

APRIL 11, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NORTON, of Ohio, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1477.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1477) granting an increase of pension to Joseph Porter, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of Joseph Porter, of Avoca, Iowa.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1477) granting a pension to Joseph Porter, have examined the same and report:

A similar bill passed the Senate during the Fifty-fourth Congress.

The report is as follows, which your committee adopt, and recommend the passage of the bill:

The petitioner, Joseph Porter, late a private in Company K, Sixth New York Volunteer Heavy Artillery, enlisted September 23, 1864, and was discharged June 28, 1865, having served about nine months. He filed an application on September 1, 1890, alleging rheumatism and injury of left hand, claiming that he was totally unable to earn a support, and was crippled in his left hand as a result of his service, said disabilities having been contracted in the line of duty and not due to vicious habits. He claims that he incurred said injury at Cedar Creek, Virginia, on the 19th day of October, 1864; claiming that while his regiment lay there the enemy suddenly and unexpectedly came on them and they all rushed for their guns. In the rush and excitement he received said injury in his left hand, it being very dark, the night being lighted only by the camp fires. He is not able to state just how it was done. The wound was not noticed until after the excitement was over. He has always believed that his hand was pierced by a bayonet. This is the only knowledge that he has and statement that he is able to make. He further claims that his rheumatism was brought on by exposure and hardships, damp, cold weather, lying out all night in the rain, and other exposures incident to army life.

Dr. Perdue, of Haverstraw, N. Y., whom he alleges treated him in 1865, at the time of the first appearance of his disability, in the month of October, or thereabouts, after the battle of Cedar Creek, is dead, and hence he is unable to get the evidence of this physician. He was afterwards treated by Dr. Nye, of Avoca, Iowa, in 1877, which physician is also dead. He was also treated by Dr. Carman, of the same place, in 1880. From the year 1865 up to within the last six years the petitioner

claims he was unable for the performance of manual labor to the extent of about one-half, and within the past six years he has been totally disabled for the performance of any manual labor. Applicant has been totally blind for over four years, and he alleges that his eyesight began to fail from the time of his discharge.

One of his neighbors, John C. W. Cool, testifies that he is personally acquainted with the petitioner and has known him for a number of years past and met him almost daily after his blindness occurred, and that he knows him to be suffering from what he alleges to be rheumatism, complaining of the same every week. Christopher Armstrong also testifies by affidavit that he has been personally acquainted with the petitioner for eighteen years, and is familiar with his physical condition; that he is totally blind, and is without any means whatever, except the pension he is now receiving of \$12 per month. He has no property of any kind; that he requires the aid and attendance of some one continually, and that his wife is advanced in age and is unable to give him the attendance he requires.

H. B. Day testified that he is a regular practicing physician, and has been engaged in the practice for fifteen years, and has been claimant's family physician; that he is totally blind in both eyes, and has been so for three or four years, and that the said blindness is the result of glaucoma and cataract of both eyes; that both eyes have been operated upon and no relief has thus far been obtained, and that in his opinion there is absolutely no hope of his obtaining any relief in the future; that he is dependent on his neighbors for aid and attention, having no property of any kind, according to his knowledge and belief.

The report of the board of pension examiners is as follows:

"The petitioner suffers with rheumatism in the shoulders and legs, not being able to do any work; has much pain after being on his feet, and can not lift arms above head; that the action of the heart is very weak, hard to hear at all, and can not feel its impulse; there is a pronounced obstructed murmur. He gets around with difficulty."

In view of the fact that after careful examination of all the papers and evidence submitted, your committee are of the opinion that the disabilities which at present affect him probably had their origin in the exposure due to his service in the Army, while under the law governing the Pension Department he is denied a further increase of pension, having applied for the same and the case having been rejected, still your committee believe that the equities of the case warrant an increase to the extent of \$30 per month.

The Senate bill is therefore reported back with the recommendation that it pass, when amended as follows:

In line 7, after the word "Artillery," insert the words "and pay him a pension."

MATHILDA AKERBLOM MOLIN.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JENKINS, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 9414.]

The Committee on the District of Columbia have had under consideration the bill (H. R. 9414) for the relief of Mathilda Akerblom Molin, and respectfully report the same back with the recommendation that it do pass.

The beneficiary, Mathilda Akerblom Molin, is now the wife of one Nils Molin, whom she married in the month of July, 1890. At the time of her marriage she was an alien, while at that time her husband, Nils Molin, was a citizen of the United States, he having become a citizen thereof on March 20, 1888. Prior to her marriage she bought some property lying in the District of Columbia, and paid for the same with her own earnings. Under the law in force in the District of Columbia this property became forfeited to the United States, the law providing that it should be unlawful for any person not a citizen of the United States, or who has not lawfully declared his intention to become a citizen, to acquire, hold, or own real estate, or any interest therein, in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created.

Under the circumstances, it would be harsh for the United States to insist upon a forfeiture, and your committee, following a great number of cases, recommend that the bill do pass. No case has come to the knowledge of your committee where the United States have insisted upon their rights under the law, and it simply means embarrassment for the party situated as the beneficiary in this case is.

The bill has been presented to the Commissioners of the District of Columbia, and they reply as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, April 2, 1898.

DEAR SIR: The Commissioners recommend favorable action upon H. R. bill 9414 for the relief of Mathilda Akerblom Molin, which was referred to them at your instance for their examination and report.

Very respectfully,

JOHN W. ROSS,
President Board of Commissioners District of Columbia.

HON. J. W. BABCOCK,
Chairman Committee on the District of Columbia, House of Representatives.

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GALEN E. GREEN.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. JENKINS, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 6460.]

The Committee on the District of Columbia have had under consideration the bill (H. R. 6460) for the relief of Galen E. Green, and respectfully report the same back to the House with an amendment, with the recommendation that the same as amended do pass.

Amend the title by striking out "C. Greene" and inserting in lieu thereof "E. Green;" so as to read: "For the relief of Galen E. Green."

From a careful examination of all the facts presented to your committee, the committee find that the beneficiary, Galen E. Green, made a subdivision of 21 acres of land, lying on Brightwood avenue, county, in 1886, for his own convenience of said subdivision. He designated a proposed street, called Cuvier street, 50 feet wide by 500 feet deep, all surrounded by his own property. This street runs east and west, and has never been open to the public, has always been fenced with his other property, and is now improved. No one has any interest in the street other than himself.

Some time ago Mr. Green abandoned the plan of ever wanting to open the street. Since that time the act commonly known in the District of Columbia as the "highway act" has become a law, and affords two streets about 100 feet from the proposed Cuvier street, which makes it absolutely necessary to abandon the proposed street. Even if the highway act should be repealed, as has been suggested, it will make no difference with reference to the rights of any person in the District of Columbia other than Mr. Green, and will not afford any objections whatever to the passage of the bill.

The bill was submitted to the Commissioners of the District of Columbia, and their letter to the chairman of the committee (made a part of this report) shows that they have no objection whatever to the passage of the bill.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, February 18, 1898.

DEAR SIR: The Commissioners, after a thorough investigation, are unable to discover any objection to the abandonment of Cuvier street, as proposed in H. R. bill 6460 "For the relief of Galen E. Green," which was referred to them at your instance for their examination and report.

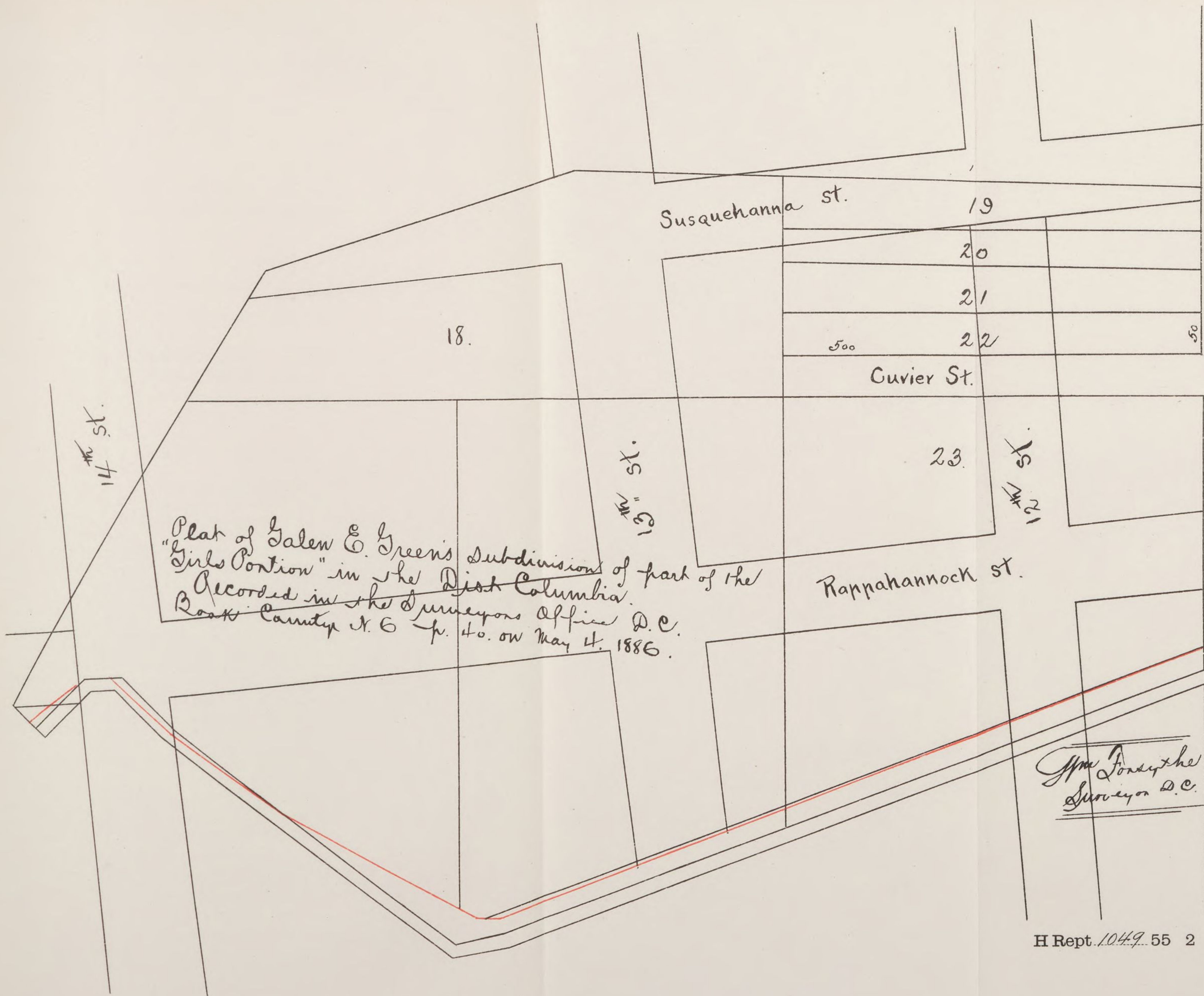
Very respectfully,

JOHN W. ROSS,
President Board of Commissioners, District of Columbia.

Hon. J. W. BABCOCK,
*Chairman Committee on the District of Columbia,
House of Representatives.*

The following is a copy of the plat furnished as explaining the situation.

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Plat of Galen E. Green's Subdivision of part of the
 "Girls Portion" in the Dist Columbia.
 Recorded in the Surveyors Office D.C.
 Book County N. 6 p. 40. on May 4. 1886.

Wm. Forsythe
 Surveyor D.C.

Brightwood Ave.

OF COLUMBIA,
 a. February 15, 1892.
 are unable to dis-
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 them at your instance

W. H. Hill,
 District of Columbia.

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Black of Salem I. Green & Co.
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PRESERVATION OF THE PUBLIC PEACE, ETC., IN THE
DISTRICT OF COLUMBIA.

APRIL 12, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. JENKINS, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 8063.]

The Committee on the District of Columbia have very carefully and lengthily considered House bill No. 8063, and report the same back with amendments, with the recommendation that when so amended the same do pass.

Amend by striking out the word "by," in line 6, page 1, all of line 7, all of line 8, all of line 9, and all of line 10, and insert, after the word "amended," in line 6, the words "to read as follows."

Further amend, on page 2, line 15, by striking out all after the word "offense" and all of line 16 and all of line 17.

This bill was prepared by the officers of the District of Columbia. The Commissioners of the District of Columbia, the police judge of the District, and the prosecuting officers of the District favor the passage of the same. They all insist that the legislation is necessary for the preservation of the public peace and the good order of the District of Columbia. The following correspondence is respectfully submitted as a part of this report:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, February 23, 1898.

DEAR SIR: The Commissioners of the District of Columbia have the honor to make the following report relative to H. R. 8063, "To amend 'An act for the preservation of the public peace and protection of property in the District of Columbia,' approved July 29, 1892," which was referred to them at your instance for their examination:

They suggest that the words "hotel, theater, bank, office building" be inserted after the word "room," in line 11, page 3, and that the bill as so modified be enacted. This suggestion is made in view of the possibility that without these words it might be held that those places are not public places where people of right may go.

Very respectfully,

JOHN W. ROSS,
President Board of Commissioners District of Columbia.

Hon. J. W. BABCOCK,
Chairman Committee on the District of Columbia, House of Representatives.

2 PRESERVATION OF PUBLIC PEACE, DISTRICT OF COLUMBIA.

POLICE COURT OF THE DISTRICT OF COLUMBIA,
Washington, D. C., February 15, 1898.

MY DEAR JUDGE: There is no law in the District of Columbia to punish the unlawful taking and using of the property of another where there is no intention of permanently appropriating it. The most usual form of this offense is the taking of horses and carriages left temporarily by their owners and, after using them as long as desired, abandoning them on the street. Not a week passes without more or less complaints of this character.

I have drawn and inclose a section to be added to the bill I sent you on the 12th instant amending the peace and order act to punish this offense.

Very respectfully,

I. G. KIMBALL.

Hon. J. J. JENKINS, M. C.

OFFICE OF THE ATTORNEY DISTRICT OF COLUMBIA,
Washington, March 5, 1898.

DEAR JUDGE: I quite agree in the propriety of your bill before Congress providing punishment for the taking and carrying away of the property of another without right so to do. I think such an offense as this should be deemed a misdemeanor punishable by a fine not exceeding, say, \$40. The importance of such legislation is illustrated very well by the practice which has grown very largely of late of people wrongfully taking possession of bicycles, horses, etc., left standing on the street. I trust the measure will meet the favorable consideration of Congress.

Very respectfully,

S. T. THOMAS,
Attorney District of Columbia.

Hon. I. G. KIMBALL, Esq.,
Judge Police Court, District of Columbia.



GEORGE B. STONE.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6625.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6625) granting a pension to George B. Stone, have examined the same and the evidence relating thereto and report:

This bill as amended proposes to pension, at \$20 per month, George B. Stone, of Cape Girardeau, Mo., for total blindness, alleged to be a result of typhoid pneumonia contracted while serving in Company O, Fifty-sixth Missouri Enrolled Militia.

Soldier filed a declaration February 21, 1885, under the general law, claiming that he enlisted in the fall of 1862 and was discharged in the fall of 1864, and in the fall of 1864 he took sick with pneumonia and was so sick for six weeks, and the fever so affected his eyes that he was sent home on furlough, and his eyes grew worse until August, 1865, when he became blind in both eyes, and has so continued ever since.

This claim was rejected December 3, 1885, on the ground "that the organization in which the disability is alleged to have been incurred was not in the service of the United States, but remained in the State service. Claims of State militiamen, not prosecuted to a successful issue prior to July 4, 1874, are barred under section 4693, Revised Statutes of the United States."

He filed a claim July 17, 1890, under the act of June 27, 1890, but that was rejected on the same ground.

A report from the Adjutant-General, United States Army, dated May 6, 1885, shows that "The records of the Missouri Enrolled Militia (State organization) are not on file in this office."

Evidence filed with this committee tends to show that this claimant did go on a raid after Price to Pilotknob, Mo., some time in 1864, date not shown, and was for about a week under the command of a United States officer, and that at some time thereafter, date not shown, he had a fever which was followed by an affection of eyes, which appears to have resulted in blindness.

There is nothing to show the dates of commencement or termination of his service of one week under a United States officer; nothing to show that he received any wound or injury while so serving, and it is not shown that his present condition of blindness is due to that one week's service.

To have given this man title under any law he must have received some wound or injury in line of duty during the "one week," and must have filed and established the claim for such wound or injury prior to July 4, 1874.

If it were shown that such wound or injury had been received while claimant was so serving this committee might waive the limitation, but it is not shown and claimant never enlisted or was mustered into the United States military service; not even his present sad condition is hardly warrant for Congressional action for his relief, but inasmuch as he served the State and assisted in repelling the Price raid under command of United States officers, your committee will give him some relief.

The bill is reported back with the recommendation that it pass when amended, as follows:

Strike out all after the word "rate" in line 6, and insert in lieu thereof "of twenty dollars per month."

It will be remembered that these troops enlisted and served simply to protect the State and not to sustain the Union or put down the rebellion.

Evidence in support of pension bill No. 4408 (hereto attached) of Joseph V. Hobbs, James Brooks, Ex-Lieut. Col. Geo. C. Thenius, Fifty-sixth Enrolled Missouri Militia; William M. Hinman, and claimant, Geo. B. Stone, said bill being referred to Committee on Invalid Pensions, January 26, 1896.

Joseph V. Hobbs, being sworn, says:

My name is Joseph V. Hobbs; I live in Randal Township, Cape Girardeau County, in the State of Missouri. I am a farmer by occupation; am 51 years old. I have lived in the same neighborhood all my life. I know George B. Stone, and have known him for forty years, and possibly longer. We were members of same company, which was Company H, in Fifty-sixth Enrolled Missouri State Militia, and Stone was transferred from Company C to Company H. Capt. Leemon Hale was captain of Company C. He is dead. Capt. Elisha W. Sheppard was captain of Company H. He is also dead. We were in service at Cape Girardeau and vicinity most of the time. We were detailed to go to Ironton and Pilot Knob in 1864, in October of that year. George B. Stone was along in service at that time. This was during Price's raid in Missouri. We were absent about a week, and were under command of a Federal Army officer in the regular service (United States), but I do not remember his name. Stone was in the Enrolled Missouri Militia for some time, I can't say exactly, but more than three months. We were all disbanded, by the proper officer, I suppose, and were not given any discharges. At the time of the enlistment of Stone, and for many years before, he was a strong and healthy man. When he returned from Ironton and Pilot Knob (and, I believe, when he returned) he was sick—I am not sure—he may have been taken sick immediately after his return. He was taken home, and was sick for three months or more, confined to his bed, or nearly all the time, so I have been informed and believe. He never recovered from this sickness. He was not disbanded before this sickness occurred. This was in 1864, fall and winter. The fever fell into his eyes, and he became totally blind, early in 1865, I think, and is so yet. The fever which resulted in blindness was incurred when in service, and I am satisfied that the fever was incurred in the service under United States command at Pilot Knob and Ironton.

Geo. B. Stone is a man of good reputation, and has been since I have known him. He is old and very poor.

J. V. HOBBS.

Sworn to and subscribed before me this 14th day of March, 1896, and I certify that I have been well acquainted with affiant, J. V. Hobbs, for more than fifteen years, and know him to be a reputable citizen.

[SEAL.]

EDWARD N. ENGELMANN, Clerk.

LEO DOYLE, being sworn, says:

My name is Leo Doyle; I live in the city of Cape Girardeau, Mo.; I am a merchant and farmer; I am fifty-nine years old. I am acquainted with George B. Stone, and have been for thirty years or more. He is a good, honest, fair citizen, and entitled to credence. He has been totally blind for twenty years or more. He is a very poor man and has no means of support.

LEO DOYLE.

Sworn to and subscribed before me this 21st day of March, 1896, and I certify that I have been well acquainted with affiant, Leo Doyle, for more than fifteen years and know him to be a reputable citizen.

[SEAL.]

EDWARD N. ENGELMANN.

JAMES BROOKS, being sworn, says:

My name is James Brooks; I live in Cape Girardeau County and State of Missouri; have lived here in Randal Township, Cape Girardeau County, all my life; I am 60 years old; I am a farmer. I have known George B. Stone about thirty-five or forty years, or more. We were members of the same company in the Enrolled Missouri Militia, Company H, in Fifty-sixth Regiment, during the year 1864. Capt. Elisha W. Sheppard was captain of Company H. He is now dead. I know that George B. Stone was among the detailed men to go to Pilot Knob and Ironton to repel what is known as Price's raid. He was gone about a week or a week and a half; I was present when he left with the command. He was in good health at that time—a strong man. In a very few days after his return he was very sick with some fever. I went to see him. He never went back to camp; was sick and couldn't go. He was sick some time during the fall and winter, but was able to walk around, but with impaired vision. He complained during that time of his eyesight—the fever having affected it, fallen into his eyes. Some time afterwards he became totally blind and is so yet. We lived within $2\frac{1}{2}$ miles of each other. He was in service when he was taken sick.

George B. Stone is a man of good moral character and has been since I have known him. He is old and very poor.

JAMES BROOKS.

Sworn to and subscribed before me this 14th day of March, 1896, and I certify that I have been well acquainted with affiant, James Brooks, for more than fifteen years and know him to be a reputable citizen.

[SEAL.]

EDWARD N. ENGELMANN, *Clerk*.

GEORGE C. THILENIUS, being duly sworn, says:

My name is George C. Thilenius; I live in the city of Cape Girardeau and State of Missouri, and have lived here since 1856; my age is 67 years; my occupation is that of a manufacturer.

I was lieutenant-colonel of the Fifty-sixth Enrolled Missouri Militia, of which regiment Col. William H. McLane was colonel.

In the fall of 1864, during the war and the time of the rebel General Price's raid into Missouri, Lieutenant-Colonel Hiller, Second Missouri United States Volunteers, who was then in command of the post of Cape Girardeau, acting under orders from St. Louis headquarters, detailed about 600 men to go to Ironton and Pilot Knob, to assist and take care of the sick and wounded of both sides, and take care of the public or military stores. In that detail, under orders of Colonel Hiller, I was in command as lieutenant-colonel of the Fifty-sixth Enrolled Missouri Militia, and took charge, under said orders, of the sick and wounded, and all the guns, cannon, stores, etc., brought them down to this (Cape Girardeau) post, and turned them over to this post. We were absent about a week or over. I ordered 350 wounded rebel soldiers in the hospital at Ironton and Pilot Knob paroled at that time. They were sick and wounded and in the hospital.

I know George B. Stone, for whom a pension is asked by special bill, and have known him for many years. He was one of the detailed men under orders of Colonel Hiller, of the Second Missouri United States Volunteers, in the Pilot Knob-Ironton expedition, and was under orders as above detailed, and present in service during the expedition to above-named points for the purposes named.

Mr. George B. Stone has been totally blind and has been for many years. He is a man of good moral character and is very poor and dependent. I have no interest whatever in the claim above referred to.

G. C. THILENIUS,

Late Lieutenant-Colonel,

Commanding Fifty-sixth Regiment Enrolled Missouri Militia.

Sworn to and subscribed before me this 28th day of March, 1896; and I further certify that I have been personally acquainted with affiant for twenty years and know him to be a reputable citizen.

H. Rep. 4—36

EDWARD H. ENGELMANN, *Clerk*.

WILLIAM M. HINMAN, being sworn, says:

I live in Randal Township, Cape Girardeau County, Mo.; I am 76 years of age; my occupation is that of a farmer.

I know George B. Stone, and have known him ever since he was a boy. I know that he was in the Enrolled Missouri Militia; he returned from the militia and was taken sick with some kind of a fever. Dr. Stockton, of the Cape, was his physician; he is now dead. He was sick a considerable time, and became blind gradually, and finally became totally blind. One of his eyes bursted completely. He has never since that time been able to do any manual labor, and since that time has been totally dependent. He was my neighbor, lived about a mile from me, and during his sickness I frequently visited him and sat up with him and contributed to his support with others. He was sick for some considerable time. He is a man of good moral character, totally blind, and dependent. I have no interest in his pension claim.

WM. M. HINMAN.

Sworn to and subscribed before me this 30th day of March, 1896, and I certify that I have been acquainted with affiant for more than ten years, and know him to be a reputable citizen.

[SEAL.]

EDWARD M. ENGELMANN, *Clerk.*

GEORGE B. STONE, being sworn, says:

My name is George B. Stone; I am nearly 60 years of age, will be in May next; I reside in Randal Township, Cape Girardeau County, in the State of Missouri, and have lived there since my boyhood. I was a member of Company C, Capt. Lemon Haile, of the Fifty-sixth Enrolled Missouri Militia, Col. William H. McLain. I think it was in September or October, 1862, when I enlisted, and afterwards I was transferred to Company H, Capt. Elisha W. Sheppard, of the same regiment. I was one of the detailed men to go to Ironton and Pilot Knob under the orders of the commander of the post at Cape Girardeau; our immediate commander was Lieut. Col. George C. Thilenius, of this city; we were absent about a week or a little longer. In a short time, a few days—two or three days—after my return I was taken sick and got a furlough from Captain Sheppard, and was not able to serve any more. I was sick about three months. I reported to the surgeon, Dr. Patrick Gilroy, who gave me an additional furlough. I was then nearly blind, the typhoid-pneumonia fever having fallen into my eyes and caused me intense suffering. This was in the winter of 1864-65. I went home and never returned to service, the E. M. M. having, as I understood, been disbanded in the meantime. Captain Haile, Captain Sheppard, Dr. Gilroy, surgeon, are all dead. Dr. R. G. Stockton, who was my physician after I got home, it also dead. He told me that it was exposure in service that caused my sickness. I am now and have been totally blind for over thirty-one years (early in 1865). I am totally dependent and have an invalid wife, and am dependent upon the charity of my neighbors and \$5 quarterly from the county.

I have heretofore applied for a pension (I believe, but am not sure, that the number is 531372), but the claim was rejected. It seems that there was another number (492940) prior to above; this last was for claim filed in 1883, in Southern division. These numbers I give herein so that reference may be had to both file papers. Under last claim a further rejection was had.

I ought to say that I never fully recovered my health, though able to try to work about the house and cutting wood, etc., but not enough to do any good. I was for years after my first illness almost helpless, and was then, as now, supported by neighbors.

These are the main facts, as I now remember them. I do not give precise dates, as I can not remember them, being so long ago, and therefore refer to affidavits filed in applications for a pension in above numbers (531372 and 492940).

I have been advised that a special bill has been introduced by Mr. Mozley, Representative from the Fourteenth Congressional district of Missouri, to have my name placed on the pension roll.

GEORGE B. (his x mark) STONE.

Attest:

E. H. ENGELMANN.

Sworn to and subscribed before me this 31st day of March, 1896, and I certify that I have been acquainted with affiant for ten years, and know him to be a reputable person.

[SEAL.]

EDWARD H. ENGELMANN, *Clerk.*

TREASURY DEPARTMENT OF MISSOURI, OFFICE OF STATE AUDITOR,
City of Jefferson, April 3, 1896.

MY DEAR SIR: I received your favor of the 30th ultimo, and would have answered it the same day but for the fact that the adjutant-general was absent from the city,

returning only yesterday. I called to see him this morning concerning the information you desire, and he gave me the following memorandum: "Records of Fifty-sixth Regiment Enrolled Missouri Militia are very incomplete. In fact, have no record of Company H at all, nor can any record of this service be found in what there is of record of that regiment. This, however, is no evidence that the man did not perform the service."

If there is anything further that you desire to know about this matter, or have me do to oblige you, please indicate it, and it will afford me pleasure to do anything and everything that I can to favor you.

With best wishes, I am, yours, very truly,

J. M. SEIBERT.

SAMUEL M. GREEN, Esq.,
Cape Girardeau, Mo.

O

MARY HANNAH CLARK.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4977.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4977) granting a pension to Mary Hannah Clark, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at \$12 per month Mary Hannah Clark, of Marblehead, Mass., the blind and dependent daughter of John W. Clark, who appears to have served in Company B, Eighth Massachusetts Infantry, from April 30, 1861, to August 1, 1861, and is shown by the records of the War Department to have served in Company B, Eighth Massachusetts Infantry, from September 15, 1862, to August 7, 1863, and in Company A, Fourth Massachusetts Heavy Artillery, from August 5, 1864, to June 17, 1865.

Soldier filed a claim under the general law May 12, 1881, based on fever and ague, and furnished evidence of the origin of said disease in the service and its continuance. He was examined by a surgeon in 1881, but the report says nothing about chills and fever or disease of liver, but shows a very bad condition from disease of lungs. A certificate of the town clerk of Marblehead, Mass., dated March 12, 1891, is as follows:

Died, Marblehead, January 22, 1883, John W. Clark, 40 years, 6 months, 6 days. Cause of death, disease of liver.

That claim has not been adjudicated. Dr. H. H. F. Whittenmore, under date of July 20, 1866, certified that on or about April 1, 1865, claimant contracted disease of the heart and did no duty afterwards, and his present condition is, "looks feeble, complains of dyspnœa on the least exertion; can not walk fast or work hard, and is not the man he was before he contracted the disease."

Dr. M. V. B. Morse, in an affidavit filed May 12, 1881, testifies that he had been the claimant's family physician for ten years. When first

called to treat him found him troubled with rheumatism, associated with disease of heart which produced dyspnœa. Said diseases were alleged to have been contracted in military service in line of duty. Has been suffering from said disease ever since, and gradually growing worse. There can be no doubt that his health was seriously impaired by the disease contracted in the Army.

In an affidavit filed in October, 1883, the same physician testifies that in 1871 soldier was suffering from intermittent fever and chronic rheumatism, which he claimed he contracted in the service. The rheumatism had produced valvular lesion of the heart. Diseases continued and he grew feebler in health until eighteen months previous to his death, when he began to be troubled with a bronchial affection, which, together with the diseases previously mentioned, so reduced his condition that he died January 22, 1883, when the cause of his death was reported to be phthisis, although the bronchitis was only one of the diseases that contributed to the final result, and had it not intervened his life would not have been prolonged but a very short time. Is positive that the disease that caused his death resulted from his army service.

The soldier's wife died in 1881, two years before he died, but he left two minor children and one daughter 20 years old, the claimant in this case, who was totally blind. A claim was filed on account of the minors, but that appears never to have been adjudicated.

The claimant in this case has no legal title, as she was 20 years of age at the date of her father's death, but she was born blind and has been so ever since. She has no income or means of support, and is dependent upon others not legally bound for her support. It is probable, though not certain, that her father's death was due to his military service.

She comes clearly within the rules established by this committee in the consideration of claims of this character.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out the words "at twelve dollars per month."

After "Clark," in line 6, insert "totally blind and."

At the end of line 9 add the following: "and pay her a pension at the rate of twelve dollars per month."

BELLE PETER.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8090.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8090) granting a pension to Belle Peter, have examined the same and all the evidence and respectfully report:

This bill as amended proposes to pension at \$12 per month Belle Peter, of Louisville, Ky., the widow of Henry W. Peter, acting assistant or contract surgeon, United States Army, who served from June 29, 1863, and whose service was honorably terminated June 13, 1864.

He is shown by the testimony of fellow-surgeons who were with him in the service to have suffered from diarrhea and dysentery while in the service, which developed into chronic diarrhea, and by other evidence to have been a sufferer therefrom until his death, which occurred April 10, 1889, from disease of heart.

A claim was filed and established by the widow under the act of June 27, 1890, and pension was paid until very recently, when, an attempt being made to establish a claim under the general law, the pension was stopped and she was dropped from the rolls, attention being called to the fact that she was a pensioner under the act of June 27, 1890, the dropping being in conformity with the decision in the case of Andrew J. Shannon.

There is considerable evidence tending to show that this officer's death was due to his military service, but the claim under the general law is still pending.

This committee have, however, repeatedly declared, and been sustained by the House and Senate and the President in that declaration, that service as acting assistant surgeon is and was intended to be pensionable under the act of June 27, 1890, and in conformity with such action this widow's pension under said act should be restored.

She is 52 years of age and poor.

The bill is reported back with the recommendation that it pass when amended as follows:

Strike out all after the word "Peter," in line 5, and insert in lieu

thereof the following: "Widow of Henry W. Peter, late acting assistant (contract) surgeon in United States Army, and pay her a pension at the rate of twelve dollars per month."

Amend the title so as to read: "A bill granting a pension to Belle Peter."

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, D. C., January 7, 1898.

MADAM: It appears from the records of this Bureau that you were pensioned February 9, 1892, under certificate No. 322973, at the rate of \$8 per month from August 18, 1890, as the widow of Henry W. Peter, late acting assistant surgeon, United States Army.

You are informed that it is held by the Secretary of the Interior that section 3 of the act of June 27, 1890, under which you are pensioned, is limited to the widows of such persons as regularly enlisted or were mustered into the military or naval service of the United States.

Your late husband served in the capacity of assistant surgeon under contract, and not by an enlistment or muster, and hence you are not entitled under said act.

Under the provisions of the act of Congress of December 21, 1893, you are hereby notified that at the expiration of thirty days from receipt of this notice your said pension will be terminated, unless in the meantime you show to the satisfaction of this Bureau that such action is not warranted.

This letter should be returned with your reply, and the envelope inclosing such reply and all testimony should be addressed to the Commissioner of Pensions and marked in the lower left-hand corner, "Board of review."

Very respectfully,

H. CLAY EVANS, *Commissioner.*

Mrs. BELLE PETER,

No. 515 West Breckinridge street, Louisville, Ky.



JOEL W. GIBSON.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NORTON, of Ohio, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5762.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5762) granting an increase of pension to Joel W. Gibson, have carefully examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$45 to \$50 per month the pension of Joel W. Gibson, of Upper Sandusky, Ohio. The soldier enlisted August 21, 1862. He was wounded in the right knee at Winchester, Va., June 13-15, 1863; thigh amputated; was discharged from the service on surgeon's certificate of disability February 13, 1864, on account of amputation of middle third of right thigh. He served in Company F, One hundred and twenty-third Ohio Volunteer Infantry. He was pensioned for amputation of thigh at \$8 from discharge; \$15 from June 6, 1866; \$18 from June 8, 1873; \$24 from June 4, 1874; \$30 from March 3, 1883, and \$45 from August 4, 1883, which rate he is now receiving.

August 8, 1889, he filed a claim for chronic diarrhea and established it and it was legally admitted, pension therefor to commence at date of filing, and was rated by the medical branch of the Bureau at \$8 per month; but in view of the fact that he was already receiving \$45 per month, and that by reason of the combined disability from the wound and diarrhea he does not appear to be so disabled as to require the frequent and periodical aid and attendance of another person, he was not allowed any additional pension on account of diarrhea.

Hon. J. A. Norton says he knows the soldier well, that he is needy, and does require frequent and periodical attendance from another person.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 8 strike out all after the word "month," and insert in lieu thereof the words "in lieu of the pension he is now receiving."

Amend the title as indicated.

LIFE-SAVING STATION AT GLOUCESTER, MASS.

APRIL 12, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. STEWART, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 8881.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 8881) entitled "A bill to establish a life-saving station on the westerly side of the harbor of Gloucester, Massachusetts," have had the same under consideration, and report the bill back with an amendment and recommend its passage.

The coast which would be protected by the proposed station is much frequented by vessels and very dangerous. In the last ten years there have been 27 wrecks (15 of which were a total loss) in which 14 lives were lost. On December 1, 1889, 17 vessels were wrecked on the westerly side of Gloucester Harbor, and on February 1 of the present year 10 vessels were there wrecked.

The General Superintendent of the Life-Saving Service in the letter to the committee says:

There would seem to be no doubt of the need of the station provided for in the bill under consideration.

The committee recommend that the bill be amended by striking out the words "and directed" in the fourth line thereof.

LIFE-SAVING STATION AT OR NEAR CHARLEVOIX, MICH.

APRIL 12, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. STEWART, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 5522.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5522) entitled "A bill to establish a life-saving station at or near Charlevoix, Michigan," beg leave to submit the following report, and recommend that said bill do pass with an amendment to the title:

This is a bill enacting that the Secretary of the Treasury be authorized to establish a life-saving station at or near Charlevoix, Mich., at such point as the General Superintendent of the Life-Saving Service may recommend.

The accompanying correspondence from the Secretary of the Treasury and the General Superintendent of the Life-Saving Service shows the necessity for the establishment of the station for the protection of life and property, 15 lives having been lost by drowning since 1888, all of which, it is believed by officials of the village of Charlevoix, could have been saved had there been a life-saving crew near by.

The committee recommend that the title of the bill be amended so as to read: "A bill to authorize the establishment of a life-saving station at or near Charlevoix, Michigan."

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 9, 1898.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ultimo, referring to House bill No. 5522, "To establish a life-saving station at Charlevoix, Mich.," and asking for suggestions touching its merits and the propriety of its passage.

In reply I have to state that the matter was referred to the General Superintendent of the Life-Saving Service for report, which has been received and is herewith transmitted, with my concurrence.

Respectfully, yours,

L. J. GAGE,
Secretary.

The CHAIRMAN COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 9, 1898.

SIR: I have the honor to acknowledge your reference for report of the letter of the Committee on Interstate and Foreign Commerce of the House of Representatives, date February 26, 1898, transmitting bill (H. R. 5522) "To establish a life-saving station at Charlevoix, Mich.," and asking for suggestions touching the merits of the bill and the propriety of its passage.

A bill of like import was introduced in the Fifty-fourth Congress, and under date of May 15, 1896, I fully reported all the facts then in my possession bearing upon the subject.

This report is embraced in the report of the committee, No. 1954 (Fifty-fourth Congress, first session), recommending the passage of a bill, which I presume may be found in the committee's files, but I inclose a copy of it. No additional pertinent facts have since come to my knowledge, and I have nothing to add to my report referred to, except to suggest that in case the committee determine upon favorable action the customary form of a bill for such a purpose be substituted for the one under consideration. The substitute would read as follows:

"A BILL To establish a life-saving station at or near Charlevoix, Michigan.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to establish a life-saving station at or near Charlevoix, Michigan, at such point as the General Superintendent of the Life-Saving Station may recommend."

Respectfully, yours,

S. I. KIMBALL, *General Superintendent.*

The SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT LIFE-SAVING SERVICE,
Washington, D. C., May 15, 1896.

SIR: I have the honor to acknowledge the receipt of your reference for report of bill H. R. 4782, "to establish a life-saving station at or near Charlevoix, Michigan."

In reply I have to state that the statistics of marine disasters collected by this office show the occurrence since October, 1882, of 12 casualties to vessels within a radius of 6 miles from Charlevoix, involving property estimated at a value of \$260,970, of which \$108,190 was lost. The number of persons on board these vessels was 189, of whom 22 were lost. All the lost were upon one vessel, the steamer *Champlain*, which was burned June 16, 1887, some two or three miles off Charlevoix. The district superintendent states that it is probable that a life-saving crew stationed at Charlevoix would have rescued many if not all of those lost. That disaster, however, as its character indicates, was not attributable to any local cause, and was as liable to happen elsewhere as in the neighborhood of Charlevoix, and should hardly have a bearing in the consideration of this case.

I am in receipt of a statement signed by the president and clerk of the village of Charlevoix, giving a list of 8 fatal accidents which have occurred since 1888, whereby 15 persons were drowned in the immediate neighborhood of the harbor, most of them by the capsizing of small boats. The officers assert their belief, which appears to be well founded, that all these persons could have been saved had there been a life-saving crew stationed near by.

While it would seem that the disasters to shipping occurring in the vicinity of Charlevoix have not in the past proved very dangerous to life, they have been quite destructive of property, and without doubt a life-saving crew would save much that would otherwise be lost. The absence of loss of life in the 11 disasters referred to does not by any means guarantee immunity from fatality in the future. On the whole, I am of the opinion that the interests of commerce and humanity would be subserved by the establishment of a station at Charlevoix.

It is respectfully suggested that if the committee should see fit to favorably report the bill, the substitution in the title of the words "authorize the establishment of" for the word "establish," would harmonize the title with the text.

Respectfully, yours,

S. I. KIMBALL, *General Superintendent.*

The SECRETARY OF THE TREASURY.

ROBERT V. HANCOCK.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 6162.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6162) removing the charge of desertion from the record of Robert V. Hancock, after careful consideration report the same back to the House with the recommendation that it do pass with the following amendments:

Strike out in lines 4 and 5 the following: "office of the Adjutant-General of the United States Army," and insert in lieu thereof, "War Department."

Strike out in line 8 the word "Seventeenth," and insert in lieu thereof the words "Twelfth Independent."

Line 10, after the word "discharge," add:

Provided, That no pay, bounty, or other emolument shall become due or payable by virtue of the passage of this act.

It appears from the records of the War Department that this soldier was enrolled and mustered into service March 24, 1862, as a private in Company L, First Missouri Light Artillery Volunteers, which subsequently became the Twelfth Independent Battery, Wisconsin Light Artillery, to serve for a period of three years. The records show further that Hancock served faithfully through a number of engagements, and that on May 19, 1864, he was admitted to the Harvey General Hospital, Madison, Wis., being unfit for military duty on account of chronic diarrhea.

Nothing, however, has been found of record to show that this soldier returned to his command up to the time it was mustered out of the service on March 25, 1865. The statement of the soldier, corroborated by the evidence of a number of reputable citizens who knew him prior to enlistment and after he had returned home from the Army, shows that he received a letter from his captain, W. Zickerick, in June, 1864, in which the captain ordered him to go home as unfit for further service, and that his furlough and discharge were to be sent him there. This was never

done. The evidence on file also shows that Hancock was never again fit for duty at any time prior to the expiration of his term of enlistment; that at the time he returned home and for several years thereafter he was under the care of a physician, now deceased, and practically a physical wreck, as a result of the injury he received at the battle of Farmington, Miss., during which engagement he was run over by the battery, and chronic and intermittent fever, which he contracted in service. It is also shown that this soldier has never been well, and as a result of his disability has been able to perform but little manual labor.

The committee have been furnished with a large amount of evidence in this case, executed by responsible parties under oath, showing that the reputation of this soldier as a citizen is excellent, and believe that there is nothing in his record to show that he intended to desert, but that on the contrary he was prevented from completing his term of enlistment by reason of disability contracted in service and in line of duty; and recommend that this bill, which will relieve him of the stigma resting on his name, be passed as amended.



SAMUEL RACEY.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 6718.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6718) to remove the charge of desertion from the record of Samuel Racey, submit the following report:

This is a bill to remove the charge of desertion from the soldier's record of Samuel Racey, now of Keokuk, Iowa. Report No. 505896 of the Record and Pension Office Bureau of the War Department shows that Samuel Racey was enrolled and mustered into the service December 12, 1861, as a private in Company K, Thirtieth Regiment Ohio Infantry Volunteers, to serve three years. He continued with his regiment until August 26, 1863, when he was furloughed home from Vicksburg on a thirty days' leave. W. H. Ijams, who was the captain of his company until he retired from the service in 1863, was a resident of the same town in Noble County, Ohio, with the said Racey, testifies that—

Racey was a very sick man. He was in such a debilitated condition that he was absolutely unfit for military duty and unable to join his command. Racey reported monthly his condition to his company by certificate from Dr. Clark, indorsed by me. He remained at home three or four months. I at that time urged him to apply for a discharge, but he expressed a strong desire to go with his regiment, and left his home for that purpose in the winter of 1863-64, being still in a very weak condition. The said Racey during all the time that he was under my command was a good and faithful soldier.

Members of his family and acquaintances testify that he started to return to his regiment in a very weak condition of health, and that they received letters from him in the hospital at Louisville, Ky., from February, 1864, for several months, but there is no hospital record.

Racey's statement is that he continued in the hospital at Louisville until September, 1864, when, growing weary of hospital life and being told by the hospital surgeon that he could not reach his regiment, which was on the march to the sea, and being solicited by a recruiting officer of the Twenty-fifth Battery, Indiana Light Artillery, he went to Indianapolis and enlisted as a private therein on the 29th of September,

1864, under the name of Samuel Rowling. The official report heretofore referred to says:

He appears to have served faithfully under his enlistment until July 20, 1865, when he was mustered out and honorably discharged the service with his battery.

Meanwhile upon the official record of Company K, Thirtieth Ohio Infantry Volunteers, he was, on the 15th of January, 1864, reported as a deserter. The evidence seems conclusive that his absence from his regiment after the termination of leave was wholly because he was physically unable to report for duty; that his physician and former captain forwarded monthly reports to this effect; that he started to rejoin his regiment and was not able to reach it, having to go to the hospital instead. He appears never to have been in fact a deserter or to have had any purpose of abandoning his service and duty as a soldier. The official testimony that he was a good soldier in both organizations in which he was enlisted, and testimony of those who know him personally that he is an honest, truthful, and reliable man, make, upon all the facts, the case worthy the favorable consideration of Congress.

The committee recommends the passage of the bill with the following amendment: Add, after the word "sixty-four," in line 9, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.



THOMAS WEST.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 4253.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 4253) granting an honorable discharge to Thomas West, report the same back to the House with the recommendation that it do pass with the following amendment:

Add the following:

Provided, That no pay, bounty, or other emolument all become due or payable by virtue of the passage of this act.

The facts in this case as the committee find them are as follows:

Thomas West was enrolled May 1, 1861, and mustered into the United States service May 13, 1861, as a private in Company F, Twelfth New York Infantry Volunteers, to serve three months. This organization was turned over to the United States Government to serve two years.

The soldier served faithfully until September 21, 1861, when he is reported as having deserted. He was again enrolled on September 5, 1864, and mustered into the United States service September 19, 1864, as a private in Company B, One hundred and eighty-fifth New York Infantry, and served faithfully until May 30, 1865, when he was honorably discharged.

He states that at the time of his enlistment in Company F, Twelfth New York Volunteer Infantry, he was only 17 years of age, and that he was enlisted and mustered in to serve three months, and at the expiration of three months that he was turned over without his consent to the United States for two years' service; that the captain gave him a pass to Washington and told him to go home.

Silas H. Duell, of Liverpool, Onandaga County, N. Y., testified that he was a member of Company F of the Twelfth New York Infantry; that the regiment was organized as State militia and sent South for ninety days, and consented with the understanding that at the expiration of ninety days they were to be returned to the State of New York.

After the battle of Bull Run they learned that General Morgan had turned them over to the United States for the balance of two years' service.

That he, with a number of others, took passes from the captain after they had served ninety days, and with the full knowledge and consent of the captain went home, supposing that they had fulfilled their contract with the Government; that they were never considered deserters; that Thomas West was one of the members that came home on Captain Locke's pass.

Albert C. Barker, an inmate of the Minnesota Soldiers' Home, testifies that he was a member of the same regiment as Thomas West, and they volunteered to serve three months with the understanding that at the expiration of three months they would be discharged or sent back to the State of New York; that they demanded a discharge or to be sent back to New York, but were notified that General Morgan had turned them over to the United States to serve for two years; that within the next month or six weeks about half the regiment went home, thinking their time had expired and that they had performed their duty under the terms of their enlistment.



REPAIR, ETC., OF CERTAIN PUBLIC WORKS, ETC.

APRIL 12, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany S. 4332.]

The Committee on Rivers and Harbors, to whom was referred the bill (S. 4332) to amend an act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, approved June 3, 1896, having had the same under consideration, report:

The river and harbor act of June 3, 1896, appropriated \$7,500 for the work at Indian River Inlet. The amount previously available being sufficient to complete the dredging, it is desirable to expend this appropriation in the construction of a training wall for the protection of the dredged channel as contemplated in the project, but under a decision of the Comptroller of the Treasury such an application of funds is not permissible without further action of Congress.

The committee recommend the passage of the bill.

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ARANSAS PASS HARBOR, TEXAS.

APRIL 12, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany House Con. Res. No. 26.]

The Committee on Rivers and Harbors, to whom was referred the concurrent resolution (House Con. Res. No. 26) authorizing and directing the Secretary of War to prepare and submit plans, specifications, and estimates for the improvement of Aransas Pass Harbor, State of Texas, have considered the same and respectfully report that said concurrent resolution do pass with the following amendments:

Strike out all after the word "estimates," in line 4, page 1, and line 5, same page, to the word "for."

Insert the following after the word "them," in line 11, on page 2:

The engineers shall also report the approximate cost of construction of any breakwater of the said company which may be used by the Government, and also report the approximate cost of removing any part of said breakwater if it is deemed necessary to remove any portion of it.

Strike out all after the word "session," in line 13, on page 2.

So the concurrent resolution will read as follows:

Resolved by the House of Representatives (the Senate concurring), That the Secretary of War be, and he is hereby, authorized and directed to prepare and submit plans, specifications, and estimates for the improvement of Aransas Pass Harbor, State of Texas, and especially to make plans and estimates for the removal of the sand bar at Aransas Pass and the deepening of the channel across said bar to a depth of at least twenty feet and a width of at least one hundred and fifty feet at the bottom, so as to furnish an inlet for the passage of vessels from the Gulf of Mexico into Aransas Harbor; and in preparing said plans, specifications, and estimates the Secretary of War, or such Government engineers as he may designate to do the work, may consider the feasibility of utilizing such breakwaters now at said pass, constructed by the Aransas Pass Harbor Company, or the utilizing of any part of the same, and the value such use of such breakwater or material may be to the United States in deepening said channel; and in the estimate of such valuation any permanent damage which, in the opinion of the Government engineers, may have occurred by reason of the construction of said breakwater to said harbor or pass, or additional expense to the United States made necessary by reason of said attempted improvements in future improvements of said harbor or pass, shall also be considered by said engineers and reported by them.

The engineers shall also report the approximate cost of construction of any breakwater of the said company which may be used by the Government, and also report the approximate cost of removing any part of said breakwater if it is deemed necessary to remove any portion of it.

That the Secretary of War is further directed to report to Congress at its next session.

WIDENING AND DEEPENING DEEP CREEK, VIRGINIA.

APRIL 12, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted
the following

REPORT.

[To accompany House Con. Res. No. 18.]

The Committee on Rivers and Harbors, to whom was referred House concurrent resolution No. 18, respectfully report that your committee is informed that the information asked for in said resolution can be had without any additional expense to the Government; and the passage of the resolution is recommended by the committee.



PULL-AND-BE-DAMNED POINT, PORTSMOUTH HARBOR,
NEW HAMPSHIRE.

APRIL 12, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. HOOKER, from the Committee on Rivers and Harbors, submitted
the following

REPORT.

[To accompany H. Res. 169.]

The Committee on Rivers and Harbors, to whom was referred the joint resolution (H. Res. 169) calling for estimates of the cost of removing the ledge at Pull-and-be-damned Point, in Portsmouth Harbor, New Hampshire, having considered the same, submit the following report:

The city of Portsmouth is a port of entry at which considerable business is transacted. About 1,000 vessels enter and clear at this port annually.

The navy-yard at Kittery, Me., is located inland from this point, and is well organized and supplied for the execution of certain kinds of naval work, especially for the equipment and furnishing of vessels and for repairing them when necessary. There is a fair-sized dry dock at this navy-yard, capable of receiving many of the vessels of our present Navy. It is not used as frequently as it otherwise would be because of the danger of injury or loss in taking naval vessels around this point.

It is supposed that the cost of removing the ledge covered by the joint resolution will not be excessive, and your committee, believing that estimates should be made in accordance with the said resolution, recommend that it do pass.

OSCAR A. PALMER.

APRIL 12, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1473.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1473) granting a pension to Oscar A. Palmer, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at the rate of \$12 per month Oscar A. Palmer, of Springfield, Mo.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1473) granting a pension to Oscar A. Palmer, have examined the same and report:

A similar bill passed the Senate during the Fifty-fourth Congress, and was reported favorably by the House.

The Senate report is as follows, which your committee adopt, and recommend the passage of the bill:

Oscar A. Palmer, certificate No. 439283, enlisted in Company F, One hundred and eleventh Ohio Volunteer Infantry, August 15, 1862, and was discharged June 21, 1865.

Original declaration filed April 24, 1888, alleging nervous affection of head, neck, back, and shoulders, and chronic diarrhea.

Pensioned at \$6 from time of filing for chronic diarrhea and resulting piles. Nervous affection reserved.

Capt. John E. Hill testifies as follows:

"That he was well acquainted with O. A. Palmer, who was a member of said Company F, One hundred and eleventh Ohio Volunteer Infantry, and who is now making application for pension; that on or about the 20th day of October, 1862, in the march from Crab Orchard to Danville, Ky., the march was a hard one and the result was a prostration of the said O. A. Palmer, so that he was unable to proceed with his company, and remembers well that he was placed with other sick men in a stable then used as a company hospital, after which he joined us at Bowling Green, Ky. His health was so shattered that he was incapable for duty, and did such light duty as he was able to perform. To the best of my knowledge the claimant was affected with nervous and rheumatic diseases."

Captain Hill also testifies to incurrence of diarrhea; Private Francis B. Olds, to incurrence of nervous trouble; Enoch L. Randall, also as above; Dr. L. G. Rhodes, to continuance of nervous troubles; Dr. G. A. Yates, to continuance during 1893 and 1894. "He was not in a condition to work half of his time." There is other evidence as to the above, and the office accepts chronic diarrhea, but rejects nervous prostration because of no pensionable disability.

Claimant is a preacher of the gospel and preaches when he can, but overwork causes him to break down and he is compelled to rest.

August 27, 1890, he is rated six-eighteenths for chronic diarrhea and six-eighteenths for nervousness and rheumatism. March 20, 1895, he is rated six-eighteenths for chronic diarrhea and three-eighteenths for nervous affections and resulting rheumatism.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Infantry," insert the words "and pay him a pension."



MRS. MARY J. DAY.

APRIL 13, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HICKS, from the Committee on Patents, submitted the following

REPORT.

[To accompany H. R. 6512.]

The Committee on Patents, to whom was referred the bill (H. R. 6512) granting an extension of letters patent to Mrs. Mary J. Day, submit the following report:

Mrs. Mary J. Day, the beneficiary under this bill, obtained April 28, 1891, Letters Patent No. 20694, for a period of seven years, for a new and useful invention and design for a pressing board. She was led to believe at the time she filed her application that she could not obtain a patent for a longer term than the period designated. She now seeks by this bill to have her patent extended for the term to which she was entitled under the statute, and which, except for ignorance of the law and her adviser, she would have originally obtained. The patent is for an ironing or pressing board, and the petitioner for relief is a poor woman, who is just now beginning to reap the benefits of her skill and genius in her useful invention.

Your committee are satisfied of the merits of the claim, as well as its justice, and unanimously recommend that the bill do pass.

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ESTATE OF ABEL ADAMS, DECEASED.

APRIL 13, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McEWAN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 1574.]

The Committee on Claims, to whom was referred the bill (H. R. 1574) for the relief of the estate of Abel Adams, deceased, have examined the same and respectfully report:

That Abel Adams, the decedent, was born in Ulster County, New York State, in 1804, and from about 1844 to 1856 he resided at Marlboro, in said county, and from the last-mentioned date until the month of June, 1866, when he died, he resided at Poughkeepsie, Dutchess County, N. Y.

Said Abel Adams was actively engaged in the manufacturing of bricks from about the year 1830 until his death. He was quite successful in business and a very careful, methodical, and prudent business man.

It appears that in October, 1864, said Adams purchased directly from the United States \$5,300 worth of United States 6 per cent coupon bonds, stock of the loan of 1861, act of July 17, 1861, as will be seen by reference to the following letter from the Treasury Department to Adams, dated October 10, 1864.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 10, 1864.

Herewith you will receive the following-described coupon bonds of United States 6 per cent. Stock of the loan of 1861, act of July 17, 1861:

Nos. 10681 and 10683, Abel Adams, \$100, 3	\$300
Nos. 74385 and 74389, Abel Adams, \$1,000, 5	5,000

issued upon a certificate of deposit of the Treasurer of the United States of September 12, interest commencing July 1, 1864.

Very respectfully, your obedient servant,

(For Register) G. PLATT.

ABEL ADAMS,
Poughkeepsie, N. Y.

The following is also a copy of the official envelope in which said bonds were forwarded to Adams:

Package No. 9707.
Coupon bonds.
Amount, \$5,300.

TREASURY DEPARTMENT,
REGISTER'S OFFICE.
Official business.

Register.

ABEL ADAMS,

POUGHKEEPSIE,

NEW YORK.

ADAMS EXPRESS CO.

Please return enclosed receipt, dated, filled up, and signed by the party to whom this package is addressed, to the office of the Register at Washington, D. C.

It is also shown by the affidavit of Daniel L. Heaton (now deceased), executor of his estate, that he (Heaton) found the above letter and envelope, together with three of said bonds, Nos. 74368, 74388, and 74389, each for \$1,000, among the papers of the deceased, but the five bonds, amounting to \$2,300, mentioned in the accompanying bill, to wit, Nos. 10681, 10682, and 10683, each for \$100, and Nos. 74385 and 74387, each for \$1,000, could not be found, although diligent search was made for them by the affiant and his coexecutor, George Hallock (now deceased). It is also shown by the affidavit of said Heaton that he had heard his coexecutor state that Adams had told him that certain of his Government bonds had been lost or stolen.

On file with the records in the case is the affidavit of Mary Anna Benton, née Adams, eldest surviving child of said Adams; also the affidavit of Mary E. Avery, daughter of said Adams. These two affiants, the only surviving heirs, state that they both resided with their father as members of his household at the time of his death, and distinctly remember that he stated just prior to his death, in 1865, that he was the owner of certain United States bonds, and was exceedingly perplexed and worried, because certain of them had been accidentally destroyed or lost. Affiants state that no trace of said bonds has been found, either before the death of their father or since, although diligent search has been made for them, and from their knowledge of the facts and conversations had with their father they believe said bonds were accidentally lost, stolen, or destroyed, and will never be found.

The Secretary of the Treasury, under date of April 14, 1897, writes that coupon bonds Nos. 74385 and 74387, each for \$1,000, and Nos. 10681, 10682, and 10683, each for \$100, are still outstanding and unpaid. Last coupons returned as paid were for January, 1865.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 14, 1897.

SIR: In reply to your letter of the 6th instant I have the honor to inform you that United States coupon bonds Nos. 10681, 10682, and 10683, for \$100 each, and Nos. 74385 and 74387, for \$1,000 each, acts of July 17 and August 5, 1861, are still outstanding. They were issued September 12, 1864, to Abel Adams, of Poughkeepsie, N. Y., and there is a memorandum on the books of this Department directing that E. W. Avery, of 21 Park Row, New York, agent of Abel Adams, be notified in case the bonds are presented for payment.

Respectfully, yours,

L. J. GAGE,
Secretary.

Hon. F. H. WILSON,
House of Representatives.

Every means appears to have been taken to find said bonds, but without success; and as said bonds have never been presented to the Treasury for payment, although they were long since called in for redemption, your committee are of the opinion that, from the facts before them and from the lapse of time, nearly thirty-two years, the destruction and loss of the bonds is fully established. They therefore recommend the passage of the bill, which authorizes the Secretary of the Treasury, after securing a proper bond of indemnity double the amount of said bonds, to pay the claimants the amount of the same, with interest, as represented by the lost coupons, to the date when the bonds ceased to bear interest.



NANCY SUSAN THOMPSON.

APRIL 13, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MINOR, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 887.]

The Committee on Claims, having had under consideration House bill 887, respectfully report:

Your committee has considered the claim of Nancy Susan Thompson, and find that the service was rendered by her father and the amount is to his credit on the books of the Auditor for the Post-Office Department. The letter from the Treasury Department attached hereto is conclusive that the claim is a just one and should be paid, and your committee recommend that the bill do pass.

TREASURY DEPARTMENT,
AUDITOR FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., May 1, 1896.

SIR: Your letter of the 25th instant, relative to the claim of Archibald Thompson for carrying the mail on certain routes in Virginia at the beginning of the late war, has been received by reference from the Second Assistant Postmaster-General. In reply I have the honor to inform you that the records of this office show that Mr. Thompson was mail contractor on route No. 4324, Christiansburg to Newport, and route No. 4327, Blacksburg to Shellville, in the State of Virginia, from July 1, 1859; that he was paid in full to December 31, 1861, and that a balance stands to his credit for service from January 1 to May 31, 1861, the date to which service has been certified, amounting to \$166.31.

The Confederate register of individual payments made by the Confederate States government on account of mail service and for other purposes, now in the custody of this office, is somewhat incomplete, there being a number of leaves and parts of leaves missing, but as far as the record goes there is no evidence that any payment was made to Mr. Thompson by the Confederate States government on account of his contract with the United States.

Very respectfully,

GEO. A. HOWARD, *Auditor.*

HON. PETER J. OTEY,
House of Representatives, Washington, D. C.

GARDINER GREENE HUBBARD COLLECTION.

APRIL 13, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. CUMMINGS, from the Committee on the Library, submitted the following

REPORT.

[To accompany H. Res. 230.]

The Committee on the Library, having had under consideration the joint resolution (H. Res. 230) authorizing the Librarian of Congress to accept the collection of engravings proposed to be donated to the Library of Congress by Mrs. Gertrude M. Hubbard, beg leave to submit the following report:

The committee have had under consideration the offer of Mrs. Gertrude M. Hubbard to present to the United States, to be preserved in the Library of Congress, the very valuable collection of engravings and art books made by her husband, the late Gardiner Greene Hubbard, and deem it proper that the gift should be accepted by an appropriate joint resolution of Congress, which is submitted with the favorable recommendation of the committee.

The letter in which Mrs. Hubbard communicates her willingness to make this munificent donation to the Library of Congress evinces such a laudable public spirit that it has been embodied in the resolution of acceptance and is, together with the other correspondence upon the subject, made a part of this report.

LIBRARY OF CONGRESS, *March 30, 1898.*

SIR: Your Librarian has the honor to report that he has received a letter from Mrs. Gertrude M. Hubbard, of Washington, in which she gives to the American people, to be preserved for their use in the Library of Congress, the art collections of her late husband, Gardiner Greene Hubbard. The nature of the gift will be explained in the following correspondence:

WASHINGTON, D. C., *March 21, 1898.*

MY DEAR SIR: I hereby offer to the Congressional Library, for the benefit of the people of the United States, the collection of engravings made by my husband, the late Gardiner Greene Hubbard, and in addition thereto the art books, to be treated as part of the collection.

This disposition of the collection, the gathering of which was to him the pleasure of many years chiefly devoted to the welfare of his fellow-men, is in accordance with his wishes, and is that which would give him the greatest satisfaction.

I desire that a suitable gallery in the Library be devoted to this collection, and such additions as may from time to time be made to it, to be known as the "Gardiner Greene Hubbard Gallery," where it can be accessible to the public, to be studied and enjoyed under such reasonable regulations as may be made by Congress, or by the authority to whom Congress may delegate the control of the Congressional Library.

Accompanying the collection is a bust of Mr. Hubbard by Gaetano Trentenove, which I desire may be kept in a suitable place in the gallery.

I propose during my lifetime to add to the collection from time to time, and in my will to make provision for increasing the collection by creating a fund of \$20,000, to be placed in the hands of trustees, the interest of which is to be used by the Librarian of Congress in the purchase of additional engravings, it being my understanding that the expenses incident to the proper care of this collection will be borne by the Congressional Library, and not a charge against this fund.

I am, very sincerely yours,

GERTRUDE M. HUBBARD.

Hon. JOHN RUSSELL YOUNG,

Librarian of the Congressional Library, Washington, D. C.

MARCH 28, 1898.

DEAR MADAM: I have the honor to acknowledge your letter in which you present to the people of the United States the works of art which belonged to your late husband, Gardiner Greene Hubbard, and wherein you likewise convey the wish that they be preserved in the Library of Congress. As the Librarian of Congress, it gives me the greatest pleasure to acknowledge this act of munificence, and to express the gratitude which all must feel over so noble an addition to the art treasures of the nation. The accumulation of this priceless collection by your husband was, as you say, the pleasure of many years of a life chiefly devoted to the welfare of his fellow-men, and those in the direction of the Library will take pride in so carrying out his wishes that it will not alone remain as a commemoration of the far-seeing generosity of the giver, but, as was his desire, be ever accessible to the people for their benefit and instruction.

Your letter has been submitted to the Joint Committee on the Library for official consideration, and for such instructions as will enable the Librarian to carry its suggestions into effect.

Yours, very sincerely,

JOHN RUSSELL YOUNG,
Librarian of Congress.

Mrs. GERTRUDE M. HUBBARD.

The collection of the late Mr. Hubbard has long been regarded by expert judges of art, familiar with its contents, as in many respects the most instructive and valuable in the country. That distinguished gentleman gave many years to its accumulation, grudging neither pains nor expense to obtain the finest examples of the masters in the various modern schools.

Germany is seen in the works of Schongauer and Albert Durer. There are specimens of the Italian artists—Marc Antonio Raimondi's engravings after Raphael, as well as the works of Carracci, Spagnoletto, Piranesi, and Raphael Morghen. The Flemish school contributes achievements of Lucas van Leyden, a contemporary of Durer, and likewise of Vorterman and Paul Pontius, who worked under the eye of Rubens. The collection contains, as your Librarian is informed, the largest number of Rembrandts in the United States, many of rarity and value. There are examples of Snyderhoef, Teniers, and others, and it is believed that there is not a well-known Flemish engraver from the time of Rembrandt to that of Josef Israels who does not find a place.

The French school opens with the seventeenth century, embracing the works of Claude Lorraine, and other masters. Mr. Hubbard showed his historical taste by a unique gathering together of the portraits of Frederick the Great and Napoleon—a hundred of Frederick, three times as many of Napoleon.

The English school includes the work of Delaram, in the early part of the seventeenth century, as well as what was done by Hogarth, Sir Joshua Reynolds, Sir Robert Strange, and Turner.

The American section opens with Paul Revere, who drew the Harvard University in 1780, and contains specimens of every noted American engraver since that time.

As the committee will see from this enumeration, the value of this collection is not alone because of its interest, merit, and beauty, but for the educational utility as illustrative of the evolution of modern art. And when it is remembered that we have already in the Library of Congress between 7,000 and 8,000 engravings and etchings—mainly the work of American artists of our own day—coming to us under the operation of the copyright law, the addition of what is now given by Mrs. Hub-

bard will make our department of graphic arts one of the largest and most distinctively representative in the world.

The conditions attached to this gift are respectfully recommended to the favorable attention of the committee. It is suggested that a suitable apartment in the new Library Building be devoted to this collection, as well as to such additions to it as will be made from time to time, and that it should be known as the "Gardiner Greene Hubbard Gallery." In furtherance of this wish, your Librarian would recommend the setting aside of a suitable apartment, and that the bust of Mr. Hubbard by Gaetano Trentenove, which accompanies this bequest, should have a place. A competent person will be detailed from the Library staff to take charge of the collection, have it properly catalogued and annotated, and see that, as Mrs. Hubbard requests, it is ever kept accessible to the public for their study and enjoyment.

Yours, respectfully,

JOHN RUSSELL YOUNG,
Librarian of Congress.

Hon. GEORGE PEABODY WETMORE,
Chairman of the Joint Committee on the Library of Congress.



CONDITIONS IN CUBA.

APRIL 13, 1898.—Ordered to be printed.

Mr. HENDERSON, from the Committee on Rules, submitted the following

REPORT.

[To accompany House Res. No. 285.]

The Committee on Rules, having had under consideration the House resolution (House Res. No. 284) as to consideration of report of Committee on Foreign Affairs, recommend that the following be adopted as a substitute:

“*Resolved*, That upon the adoption of this resolution the House shall proceed to the consideration of the resolution of the Committee on Foreign Affairs upon the President’s message with respect to conditions in Cuba.”

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REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION
PASSED BY THE BOARD OF LANDS
AND MINES, 1890
AND TO A RESOLUTION
PASSED BY THE BOARD OF LANDS
AND MINES, 1891
AND TO A RESOLUTION
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AND TO A RESOLUTION
PASSED BY THE BOARD OF LANDS
AND MINES, 1900

JOHN R. BROWN vs. CLAUDE A. SWANSON.

APRIL 13, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. CRUMPACKER, from the Committee on Elections No. 3, submitted
the following

REPORT.

[To accompany House Res. No. 286.]

Mr. Crumpacker, from the Committee on Elections No. 3, submitted the following report on behalf of the members of said committee whose names, are hereunto subscribed:

Contestant and contestee were opposing candidates for Congress in the Fifth district of Virginia at the election in November, 1896, the former running as the Republican and the latter as the Democratic candidate. The political subdivisions composing the district, with the vote counted for each candidate, appears in the following table:

	Swanson.	Brown.
<i>Counties.</i>		
Carroll.....	1,533	1,689
Floyd.....	881	1,591
Franklin.....	2,257	1,749
Grayson.....	1,380	1,504
Henry.....	1,332	1,866
Patrick.....	890	1,164
Pittsylvania.....	4,257	3,071
<i>City.</i>		
Danville, including Neapolis.....	1,809	1,148
Total.....	14,333	13,782

Majority for contestee 551.

The issues presented by the contest must be determined by the law of Virginia. The law of that State provides for a system of voting somewhat analogous to what is commonly known as the "Australian system." It requires an official ballot and election booths into which voters are required to go to prepare their ballots for voting. The ballot is prepared by scratching, with a pen or pencil, the names of the candidates whom the voter does not desire to support. No sample ballots are allowed and but little can be known by the ordinary voter,

respecting the names of candidates and the arrangement of the ballot, until he attempts to vote. At the election in November, 1896, the official ballot was printed in a single column as nearly solid as was practicable, and was without emblems or party titles, and it contained the names of sixty-six candidates for various offices.

Elections are held in the various precincts by three judges and two clerks. The judges are selected by county and city electoral boards, each composed of three members elected by the legislature. The election judges effect their own organization by choosing one of their number to preside at the ballot box, one to have charge of registration books, and one to assist illiterate and physically disabled voters in preparing their ballots. The whole election machinery in the Fifth district at the election in question was controlled by the Democratic party. Every county electoral board and every board of judges in the district, so far as the record discloses, was controlled by members of the Democratic party, and in nearly every instance the judge selected to assist illiterate voters was a Democrat.

A voter who requires assistance in preparing his ballot is not permitted to select the judge he desires to assist him, but is bound to accept assistance from the judge selected by the board for that purpose. A large percentage of the voting population of Virginia is illiterate, and the act of voting is surrounded with so many obstacles that all the illiterates require assistance in preparing their ballots. The judge selected to assist illiterates, as a rule, can perpetrate fraud with impunity, for the voter, by lack of education, is unable to know whether his ballot is marked so as to express his will or not. The only safeguard for the honesty of elections in this particular is the capacity and personal integrity of the assisting judge.

PATRICK COUNTY.

The board of canvassers of Patrick County rejected the returns of three precincts, which gave contestant an aggregate majority of 146, viz:

Court-House, majority for contestant.....	36
Gates Store, majority for contestant.....	54
Kings Store, majority for contestant.....	56

A majority of the board of judges at Court-House precinct was Democratic and supporters of contestee, and the only evidence of irregularity disclosed by the record is that one of the judges was not sworn. Contestee, by his counsel, in the printed brief filed in the case, admits that the return at that precinct was improperly rejected and that the majority of 36 shown for contestant should be counted for him.

At Gates Store the return was in due form, but the signatures of the judges thereto were written by one of the clerks. The signatures were so written in the presence of and at the request of the judges. Two of the judges were Democrats and supporters of contestee and the other was a Republican and a supporter of contestant. There was no evidence that any fraud or irregularity occurred prejudicial to the interests of contestee, but the return was rejected on the sole ground that the signatures of the judges were written by the clerk. That was clearly an insufficient reason for rejecting the return. The rights of the innocent voters of the precinct should not suffer on account of such a slight irregularity, if it were an irregularity at all. The signature of each judge was written in his presence and at his request, and was, in the sense of the law, his own signature. An attorney in fact has no authority to sign the name of an election judge to official papers, it is

true, for such a signing would relieve the judge of some of the responsibilities of his trust, but in this case the signature was not by an attorney in fact, but by the judge himself, because it was made under the direction of his will. Each of the judges so signing the return could be prosecuted under the law for making a false return as fully as if he had written the signature with his own hand. The law requires the signature to be the act of the officer, but it does not prescribe the instrumentality he shall employ in making it. There was a sufficient compliance with the law in this instance, and the majority of 54 for contestant at Gates Store should be counted for him.

At Kings Store 177 ballots were found in the box and only 175 names appeared on the poll books, and for that reason the return was rejected. There was no other evidence of fraud or irregularity submitted, and two of the three judges were political friends and supporters of contestee. It was the duty of the election officers under the law to count the ballots without unfolding them as soon as the polls were closed, to ascertain whether the number of ballots was the same as the number of names on the poll books. If there were more ballots than names one of the officers should be blindfolded and draw the excess from the box. That seems not to have been done at this precinct. The board of county canvassers notified the election judges to appear during the canvass of the vote of the county and purge the poll in accordance with the law, but they declined to do so. There were only 170 votes cast for candidates for Congress, so the number of Congressional ballots was 5 less than the number of names on the poll books. However, that slight discrepancy, in the absence of other evidence impeaching the poll, would not be sufficient to warrant its rejection. The possibility of an omission on the part of the clerks to record all of the names, or the possibility of voting a double ballot through inadvertence, may account for the discrepancy consistently with honest conduct.

Moreover, the vote at the precinct was proven by evidence aliunde. One of the election judges who assisted in canvassing the ballots testified that contestant received 113 votes and contestee received 57 votes. The testimony was based upon an actual inspection and count of the ballots, and it stands in the record wholly uncontradicted. The conclusion of the undersigned members of the committee is that the majority of 146 for contestant at the three precincts in Patrick County should be counted for him.

HENRY COUNTY.

At Ridgeway precinct, in Henry County, 55 ballots improperly marked for candidates for President were rejected altogether on that account. They were burned at the close of the canvass, but it was proved without dispute that 48 of them were correctly marked for contestant and 5 for contestee.

The election law expressly declares that ballots correctly marked for one candidate shall be counted for him, though they be improperly marked for candidates for other offices. Indeed, neither the law nor the facts are disputed, but contestee insists that the entire poll shall be rejected because of alleged fraud. The board of judges was composed of two Democrats and one Republican, all selected by a Democratic county electoral board.

The evidence shows that a number of voters, after having their ballots marked, ready to be deposited in the box, showed them to the Republican judge. That is the only evidence of fraud at that precinct appearing in the record. It was not shown that the voters so displayed

their ballots for improper purposes. The judge who assisted illiterate voters was a Democrat, and there was some solicitude on the part of the voters about the manner in which their ballots were being prepared. The Virginia law provides for secret voting, but the secrecy is for the protection of the voter and is not compulsory as to him. There is nothing in the law prohibiting the voter from displaying his ballot to the election officers after it has been prepared, provided he does not do it for corrupt purposes. The power in one judge, often a partisan, to mark ballots for illiterates was regarded as so dangerous, on account of its liability to abuse, that great concern was felt throughout the State of Virginia respecting the fairness of the election in 1896. A few days before the election a circular letter construing some provisions of the election law was prepared by sixteen reputable lawyers living in various parts of the State, and all members of the Democratic party, and it was scattered broadcast all over the State. Upon the question of the right of the voter to show his ballot, that letter said:

Section 13 of the Parker bill aforesaid requires the voter to fold his ballot and hand it to the judge of election, who shall place the same in the ballot box. This section does not require him to fold his ballot until after he has left the booth and is in the presence of the judge of election who is to receive and deposit it. We hold that he may expose his ballot before folding it to any person near enough to see its contents, and that such exposure is a legal method for the detection of possible fraud.

There can be no doubt, under the Virginia law, that it is not improper for a voter to show his ballot to the election officers, when he does it for proper purposes. At this precinct 48 additional votes should be counted for contestant and 5 for contestee.

PITTSYLVANIA COUNTY.

Pittsylvania has the largest percentage of colored voters of any county in the district, and contestee carried it by a larger majority than he received in any other county in the district. According to the returns, the district, outside of that county, gave contestant a majority of 635, but contestee's majority was so large in that county, with its heavy colored vote, that he overcame the adverse vote in the balance of the district and had 551 still to his credit. At three precincts in that county 494 legally-qualified voters went to the polls on election day and made diligent and persistent efforts to vote, but were unable to do so. The precincts, with the number of votes so kept out, are as follows:

Stokesland	304
Ringgold	72
Design	119

The depositions of all those voters were taken and are in the record, and each one testified that he went to the polls at a reasonable time (many went at sunrise and remained all day) and used every effort in his power to vote, but failed for want of an opportunity. Several hundred were standing in line when the polls closed at sundown on election day. Each one testified that he was a registered voter in the precinct at which he attempted to vote on the 3d day of November, 1896, and, if he could have voted, his vote would have been cast for contestant for Congress.

This evidence is practically undisputed. There was evidence of unnecessary delays and discrimination at all of the precincts, though contestee strenuously maintains that those charges were thoroughly

refuted, and that the reason that all the voters could not vote was that the precincts were so large that all could not be accommodated. It is a singular fact, however, that all the voters who were denied an opportunity to cast their ballots were Republicans and supporters of the contestant, except 19 at Ringgold.

The total registered vote at Stokesland was 888, of which 173 were white and 715 were colored. The vote polled was 326, contestant receiving 200, contestee 116, and 10 were not counted. It is the duty of county courts in Virginia to establish voting precincts, and after they are once established those courts, upon the petition of 15 voters of a precinct, are authorized to change the boundaries and create new precincts if the convenience of the people seems to demand it. In September, 1895, 32 voters of Stokesland petitioned the county court to divide that precinct and create a new one, on the ground that there were too many voters for one. The petition was continued from term to term, and finally refused in September, 1896.

The total registration at Ringgold was 470 white and 362 colored. There were 504 votes cast, contestant receiving 87 and contestee receiving 316, and 101 ballots were rejected. The registration books were purged about ten days before the election and 95 names were stricken off, leaving the number as above noted. The judges and clerks were all Democrats at that precinct. At Design there was a registered vote of 530, of which 164 were white and 366 were colored. The number polled was 332, distributed as follows: Contestant received 165, contestee 141, and 16 were rejected.

There were 526 who testified that they attempted to vote at those three precincts and failed, and the undersigned members of the committee carefully examined the testimony of each witness and disallowed a number because of their failure to show satisfactorily their right to vote or that they were refused the privilege of voting. All that there was any question about were eliminated from consideration, leaving 494 who proved that they were registered voters of the precincts and made due effort to vote and failed, and that they would have voted for contestant.

The purpose of elections is to register the will of a majority of the voters, and it is the duty of the officers of the law to afford every qualified voter a reasonable opportunity to exercise the important right of suffrage. If that opportunity is afforded and the voter fails to avail himself of it, or if by some fault of his own he violates some regulation in attempting to exercise the right and thereby loses his vote, he can have no just cause of complaint. But if conditions exist, for which the voter is not responsible, that operate to defeat the rights of a substantial number of electors to vote so that it can not be said that the result at a particular poll reflects the will of a majority of the voters, it discredits the entire poll. That doctrine is elucidated and emphasized in section 251 of McCray on elections (3 ed.), in the following language:

But the question may arise whether, even in the absence of proof of a fraudulent purpose, the fixing of the voting places in such a manner as to prevent a full and free election must not render the election void? As, for example, if all the voters of a county or city are required to vote at a single polling place, and if it should appear that the voters were so numerous that it was impossible for them all to vote, and that a part were, in fact, for this reason prevented from voting—in such a case, we think, the election should be held void without further proof.

Perhaps from these facts a fraudulent purpose on the part of the board or officers whose duty it was to fix suitable and convenient voting places would be presumed; but if not, then the election should be held void upon the ground that whatever in point of fact prevents a fair and free election, whether so intended or not, must render the election null and void.

Where, however, the rejection of the poll might aggravate the wrong or would defeat the ends of justice and it is shown by reasonably satisfactory evidence the number of votes so excluded and for whom they would have been cast, had there been an opportunity, the poll will be considered and the excluded votes will be counted for the candidate who would have received them. This has been the rule of the House for many years, and it is based upon principles of justice and a wise public policy. In the case of *Thorp v. Epes*, the present Congress counted votes excluded under precisely similar circumstances, and the question is no longer an open one. For the purposes of this question it is immaterial whether the votes were excluded by the actual fraud of election officers, or error of judgment on the part of administrative officers in creating precincts so large that all the votes could not be polled.

It was proven, however, by evidence of a most convincing character, that the election officers resorted to methods in conducting the election the effect and purpose of which was to discriminate against Republicans and to cause useless delays in polling the vote at Stokesland and Design. Both of those precincts contained large Republican majorities and the judges so manipulated the election as to poll the entire Democratic vote, while contestant practically lost a large portion of his normal party majority. At Stokesland the election board was composed entirely of Democrats, and by the direction of the judges the voters were formed into two lines, one white and the other colored, and they were given alternate periods of fifteen minutes each to vote. Thus the 173 white voters were allotted the same amount of time as the 715 colored voters. The method of dividing the voters into lines according to color is not necessarily vicious, provided the allotment of time corresponds to the relative number of votes of each class in the precinct.

The constable at that precinct, whose duty it was to preserve order and inform voters when the booths were vacant, was intoxicated most of the day and wasted much time in sending men to the booths and then ordering them back into line before they had voted, and sending others to take their places. He selected men from the lines to vote and did not take them in any order, but picked about promiscuously according to his own arbitrary will. The judges challenged numerous voters and consumed much time in asking needless questions, upon the pretext that the voters were migratory in their habitations and they did not know who were qualified to vote. In nearly every instance the challenge was overruled. The voters were all registered and the facilities provided by law for purging the registration list were a sufficient guaranty that those whose names were on the list were legal voters, but the election officers refused to so regard it and investigated for themselves. It was manifestly done for the purpose of preventing the polling of the full vote. Numerous witnesses testified to unnecessary delays in voting, and while the entire vote of the precinct could not have been polled under the circumstances, a much larger proportion of it could have been if proper methods had been used.

At Design substantially the same tactics were pursued as at Stokesland. The election officers were all Democrats, and two lines were formed according to color, and 15 from each line voted alternately. The same amount of time was given the 164 white voters as was given the 366 colored voters. There was satisfactory evidence of delays on the part of the election officers inconsistent with an honest purpose to accommodate the voters. The election officers were frequently absent

from their post of duty and voting was suspended until their return. Much unnecessary time was consumed by the judges in challenging, interrogating, and swearing voters. They did not permit voters to come in the order they stood in the lines, but selected them promiscuously, regardless of order or system, thus creating impatience and turmoil among those waiting. If the election officers had done what they reasonably could to facilitate voting almost the entire vote at Design could have been polled. As it was, the entire Democratic vote was polled and only about half of the Republican vote. The claim on behalf of contestee that votes not cast can not be counted under the Australian system of voting, because of its peculiar features, is entirely destitute of merit. The rule is the same under all systems of voting.

Nor will it do to withhold from the voter an opportunity to cast his ballot and in answer to his complaint say to him that he probably would have lost his vote in trying to cast it. Every legal voter is entitled to an opportunity, and if he fails to register his voice on account of incapacity or neglect the fault is his own.

The point is also made on behalf of contestee that parol evidence is not competent to prove registration, but that it can only be proven by the registration books. Registration is designed to prevent fraud and to determine disputed questions that might otherwise arise at elections in advance, so as to avoid confusion and delay. Election boards do not have the time nor opportunity on election day to investigate critically questions that may arise respecting the qualifications of voters, and for the purposes of election the registration books are primary evidence; but when questions arise, as they do here, before a tribunal fully equipped to investigate for the truth, the qualifications, including the registration of voters, may be proved by parol.

Registration does not create the right to vote, but it is an official memorandum of an existing right, and parol evidence is as near the fact as the books. In fact, the books are made from parol evidence, and they are never regarded as more than prima facie evidence of the right to vote. In most of the States laws exist requiring a record to be made of marriages, but the record does not constitute the marriage; it is only an official memorandum of it; and in all the States marriage may be proven by parol evidence notwithstanding the record. A very liberal policy has always been followed in election cases respecting the admissibility of evidence. McCrary, in his work on elections, at section 467, says:

It is undoubtedly the policy of the law not to throw too many obstacles in the way of investigating the correctness and bona fides of election returns. On this point the court in *Reed v. Kneass* very justly observe:

"The true policy to maintain and perpetuate the vote by ballot is found in jealously guarding its purity, in placing no fine-drawn metaphysical obstructions in the way of testing election returns charged as false and fraudulent, and in assuring to the people by a jealous, vigilant, and determined investigation of election frauds that there is a saving spirit in the public tribunals charged with such investigations, ready to do them justice if their suffrages have been tampered with by fraud or misapprehended through error."

It is in the spirit of this rule that questions respecting evidence in contested-election cases should be solved.

In the recent case of *Thorp v. Epes* this House decided that parol evidence is admissible to prove registration, and that decision is in harmony with the best expression of writers and courts on the subject.

Under the long-settled practice of the House there is no doubt that the 494 votes excluded at the three precincts in Pittsylvania County should be counted for contestant.

Contestee proved that 19 qualified voters attempted to vote for him

under the same circumstances at Ringgold precinct but were unable to do so. Those votes should be counted for him.

At Hurts Store precinct, in Pittsylvania County, R. T. East, one of the election judges, testified that he assisted illiterate voters part of the day in preparing their ballots and that he mismarked 15 ballots for candidates for Congress—14 for contestant and 1 for contestee. He stated that he only erased the surnames of those whose names he attempted to strike out, supposing that was all the law required, but he learned later that the mark should have extended through three-fourths of the name. Those so mismarked were all rejected by the board.

It is manifest that those votes should be counted. There is no dispute upon the facts, and it is well settled that an elector can not lose his right to vote by the mistake of one of the election officers. If the voter himself made the mistake the ballot should not be counted, but where he depends upon an officer whose duty it is to assist him in the preparation of his ballot and the officer, through ignorance or design, fails to mark the ballot properly it should be counted. Contestant should be credited with 14 and contestee with 1 vote at that precinct.

The votes which the undersigned recommend shall be counted for the respective parties at the precincts so far considered would change the result of the election and give contestant a clear majority of 126. That those votes should be counted there can be no doubt, either upon the facts or the law. Evidence has been submitted strongly tending to prove fraud upon the part of election officers at a number of other precincts, only three of which it is considered necessary to discuss.

At Dry Forks precinct, in Pittsylvania County, 174 votes were cast, of which contestant received 46 and contestee 95, 33 being rejected. A tally was kept of the Republican vote cast at the precinct, and the tally keeper testified that 116 Republicans voted. The depositions of 98 witnesses who voted, and whose names appeared upon the poll books, were taken, and they all testified that they voted for contestant for Congress. If all the rejected ballots were intended for contestant and added to the vote he received, it would make 79 only, 19 less than the number who testified that they voted for him. The election judges tried to prevent a tally from being kept and threatened to arrest the tally keepers. One Norman was the judge selected to assist illiterate voters. He is a Democrat, and betrayed a suspicious anxiety to prepare ballots for voters. He would frequently volunteer his assistance, with the suggestion that he could prepare the ballots with greater facility than the voter. That judge is shown to be a man of unsavory reputation by numerous witnesses.

One witness, introduced by contestee in support of his character, said, in answer to a question on cross-examination:

Well, I know he is dissipated. I have heard he is a bad man after women, and dissipated. I never heard of Mr. Norman stealing anything or lying either.

There was palpable fraud at that precinct which vitiates the return, and it should be rejected, and the 98 votes proven aliunde should be counted for contestant.

The total vote polled at Mount Airy precinct in Pittsylvania County was 105. Contestant received 32 and contestee 42. All the judges and clerks at that precinct were Democrats. The election officers had whisky and drank it during the day, and at noon they adjourned and took the ballot box with them out of view of the voters into another room in the building and kept it for about one hour. Several witnesses

testified that they heard one of the judges say on the morning of the election that they "intended to count Swanson in." Evidence was introduced showing that the judge selected to assist illiterates willfully marked ballots wrong. Fifty-two men testified that they voted for contestant, and 41 testified that they had the judge prepare their ballots for them, yet contestant was only given 32 votes by the canvass. The result is so tainted with fraud as to be unreliable, and the return should be rejected and the 52 votes that were proven for contestant should be counted for him.

FRANKLIN COUNTY.

At Dickinson precinct in Franklin County 250 votes were cast, contestant receiving 58, contestee 147, and 45 were rejected. The election officers were all Democrats, and the judge chosen to assist illiterates refused to mark their ballots for them. When asked to do so he would reply that it "was not his business." Numerous witnesses testified to his refusal to furnish them the necessary assistance, and the judge was not examined as a witness at all. It is not denied that he refused to mark ballots for the illiterates. Ninety-five witnesses testified that they voted for contestant. The return at this precinct might justly be rejected altogether, and the 95 votes proved for contestant be counted for him; but the subscribing members of the committee recommends the counting of the vote proved, which will add 37 to contestant's vote.

Several depositions were taken on the 1st day of March, 1897, and contestee makes the point against the consideration of that evidence, that it was not taken within the time fixed by law for taking testimony in such cases.

The merits of the point depend upon the date upon which the answer of the contestee to the notice of contest was served upon the contestant. It appears by the return of the sheriff to have been served on the 19th day of January, and if that was the date of service the testimony was taken after the time had expired. Contestant insists that it was not served on him until the 20th of January, and if that date be correct the testimony was within the time allowed by law. The answer is dated January 20, and it is not likely that it was served before it was issued, and the conclusion is that the sheriff's return is erroneous and that the answer was not served until January 20. It may be pertinent to suggest in this connection that if the testimony were excluded it would not affect the result reached by the committee.

Contestee also insists that the return at Indian Valley precinct in Floyd County should be rejected for fraud. Contestant received a majority of 249 at that precinct. Two of the election judges were Democrats and one was a Republican. A Democratic judge was selected to assist illiterate voters, but during the day the Republican judge, Milton Quesenberry, announced that he would assist illiterates, and, acting upon his own appointment, he did so assist for about two-thirds of the day. The other judges reluctantly consented to his acting in that capacity. There is not an iota of evidence tending to prove that a single ballot was mismarked by that judge or that any fraud was practiced by him, and the percentage of rejected votes at that precinct was unusually small. It is not fraud per se under the law of Virginia for a Republican judge of elections to assist illiterate voters in preparing their ballots, however anomalous it may be in practice. There is no evidence impeaching the integrity of that poll.

RECAPITULATION.

Votes to be counted for contestant:

Court-House precinct	36
Gates Store precinct	54
Kings Store precinct	56
Ridgeway precinct	48
Stokesland precinct	304
Ringgold precinct	72
Design precinct	119
Hurts Store precinct	14
Dry Forks precinct	98
Mount Airy precinct	52
Dickinson precinct	37

Total votes to be counted for contestant..... 889

To be counted for contestee:

His returned majority	551
Ringgold precinct	19
Ridgeway precinct	5
Hurts Store precinct	1
	— 576

Deduct from contestee:

Dry Forks precinct	49
Mount Airy precinct	10
	— 59

Balance..... 517

Contestant's majority 372

The undersigned members of the committee, therefore, recommend the adoption of the following resolutions:

“Resolved, That Claude A. Swanson was not elected a Representative in the Fifty-fifth Congress from the Fifth Congressional district of the State of Virginia, and is not entitled to a seat therein.

“Resolved, That John R. Brown was duly elected a Representative in the Fifty-fifth Congress from the Fifth Congressional district of the State of Virginia, and is entitled to a seat therein.”

JAMES A. WALKER.
W. S. MESICK.
W. S. KIRKPATRICK.
E. D. CRUMPACKER.

JOHN R. BROWN v. CLAUDE A. SWANSON.

APRIL 23, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. MIERS, from the Committee on Elections No. 3, submitted the following as the

VIEWS OF THE MAJORITY.

[To accompany House Res. No. 293.]

The returns show that 28,115 votes were cast for Congressmen in the Fifth Congressional district of Virginia on November 3, 1896, and that Claude A. Swanson, Democrat, the contestee in this case, received a majority of 551 votes.

Contestant urges (Brief, p. 3), upon what he terms the "principal and all-sufficient grounds" of his contest, that he is entitled to a majority of 158 votes.

He further contends that there are "other claims" which ought to be allowed, which would give him a majority of 760 votes (Brief, p. 65).

In his reply brief (p. 48) contestant reduces the majority which he claims upon his principal grounds to 51, and his majority on all claims to 306 (Reply brief, p. 52).

Contestee, in his brief (p. 94), claims that 249 votes should be added to the votes returned for him, making his majority 800.

After listening to exhaustive arguments in this case, four members of the committee have filed a report in which they recommend that contestant be given a majority of 372 votes. They also direct attention to 147 other votes which, in their opinion, might justly be counted for contestant, making his majority 519.

The undersigned agree with the conclusions of the said report, except so far as they relate to the so-called excluded vote at Stokesland, Ringgold, and Design precincts, and the 147 votes aforesaid, which we do not think should be counted for contestant.

After a careful examination of the cases and authorities cited by contestant and a rigid analysis of the evidence contained in the record relating to these three precincts, we are constrained to conclude that, while the law is correctly stated by contestant, the facts, as disclosed in the record, do not warrant the counting for contestant of the 495 excluded votes.

We are therefore of the opinion that the returns should give to the contestee a majority of 123 votes, and we recommend the adoption of the following resolutions:

“Resolved, That John R. Brown was not elected a Representative in the Fifty-fifth Congress from the Fifth Congressional district of the State of Virginia, and is not entitled to a seat therein.

“Resolved, That Claude A. Swanson was duly elected a Representative in the Fifty-fifth Congress from the Fifth Congressional district of the State of Virginia, and is entitled to a seat therein.”

H. S. BOUTELL.

A. V. S. COCHRANE.

ROBERT W. MIERS.

S. BRUNDIDGE, Jr.

R. E. BURKE.



JOHN R. BROWN vs. CLAUDE A. SWANSON.

APRIL 23, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. MIERS, from the Committee on Elections No. 3, submitted the following as the

SUPPLEMENTAL VIEWS OF THE MINORITY.

[To accompany House Res. No. 294.]

The undersigned members of Committee on Elections No. 3, to whom was referred the contested-election case of John R. Brown, contestant, *v.* Claude A. Swanson, contestee, from the Fifth Congressional district of Virginia, respectfully submit the following report:

The contestant, Mr. Brown, was the Republican candidate and the contestee, Mr. Swanson, was the Democratic candidate at the election held November 3, 1896, in the Fifth Congressional district of Virginia. This district has nearly always been a Democratic district, having gone Republican only once in twenty-four years. The census of 1890 shows that the counties and cities composing this district have 23,962 white voters and 10,012 colored voters. There is not a county in the district that has not a large white majority.

There were polled in the district, not including imperfect ballots, 28,115 votes—the largest vote ever polled in that district. The contestee, Mr. Swanson, was returned as elected by a majority of 551. The contestant, Mr. Brown, made many complaints in his notice of contest, but all of these complaints were finally abandoned except as to 12 precincts in the district. This district is composed of 142 precincts. Thus the returns from 130 precincts are finally not questioned by the contestant.

The contestant divides his case, as shown by the brief of his counsel, into what he calls his “principal grounds of contest” and his “other claims.”

Upon his principal grounds of contest, as shown on page 48 of his reply brief, the contestant claims a majority of 51, and on page 52, including both “principal grounds” and “other claims,” he estimates his majority at 306. It should be noted that this majority claimed for the contestant by his counsel is 66 less than the majority for the contestant as estimated by the four members of this committee in their views heretofore filed in this House.

The 12 precincts upon which the contestant relies for changes in the

vote as returned, in order to overcome the majority of the contestee, are as follows:

Court-House, King's Store, and Gates's Store, in Patrick County; Ridgeway, in Henry County; Dickinson, in Franklin County, and Shockoe, Hurt's Store, Mount Airy, Dry Fork, Ringgold, Design, and Stokesland, in Pittsylvania County.

The undesigned submit conclusions reached by them as to the contentions of the contestant and of the contestee at each of these precincts.

1. COURT-HOUSE PRECINCT, PATRICK COUNTY.

The returns from this precinct were rejected by the county board of commissioners, whose duty it was to canvass the vote, because it appeared from the returns that the judges of election were not sworn, as required by law.

The board summoned the judges to appear and correct the returns, but when they appeared the returns could not be corrected as to one judge, as it was true that he had not been sworn, as the law required. But as there was no evidence of fraud it was conceded by the contestee that this was an error on the part of the board of commissioners, and that the 36 majority received by the contestant at this precinct should be counted for him. All of the recent decisions of the House of Representatives are that the failure of officers of election to be sworn can not, in the absence of fraud, vitiate the returns. Thus, by giving the contestant his majority of 36 at this precinct, it reduces the majority of the contestee to 515.

2. KING'S STORE PRECINCT, PATRICK COUNTY.

The contestant was returned a majority of 56 from this precinct. The contestee insists that the returns from this precinct should be rejected in the determination of this cause, as was done by the county board of commissioners when they canvassed the vote. The grounds upon which this contention is made are these:

When the polls were closed, as required by law, the ballot box was opened and the votes counted. It was found that the number of ballots in the box corresponded exactly with the list of voters as kept by the clerks. The ballots were then sealed and returned to the clerk's office, as required by law, where they now are. The returns were then written up by one J. T. King, who was a supporter of the contestant, and not an officer of the election.

When the returns were certified to the clerk's office 178 ballots were certified for the Presidential electors, while only 175 ballots had been cast. As this error appeared upon the face of the returns, the county board of commissioners, who canvassed the returns, summoned the judges to appear and correct them. Upon appearance, the judges insisted that they could not correct their returns, which, as before stated, certify more votes than were cast, unless they counted the ballots which were returned sealed to the clerk's office and which alone could correctly give the vote. This conclusion was concurred in by all three of the judges, two of whom were Democrats and one of whom was a Republican.

The Republican judge, Coleman, in his testimony stated that he thought the contestant's majority was 26, while the Democratic judge, Mays, stated that he thought the majority for the contestant was 56. As the returns were on their face incorrect and could not be corrected,

the board of commissioners rejected them. The contestee insists that, as the returns are confessedly wrong on their face, that they were properly rejected by the board of commissioners and should not now be counted, especially since there is a discrepancy between the statements of the two judges of election who were examined as to the majority received by the contestant. The laws of Virginia provide that when ballots, sealed, are returned to the clerk's office they can be opened only by order of the court in cases of contest.

The contestee insists that before the contestant could have been entitled to have any votes counted for him at this precinct he should have obtained an order from the court and had counted the ballots, which all admit would correctly give the vote; that this being the best evidence and the returns being admitted by all to be wrong, no other evidence can now be considered. But the returns for the candidates for Congress from this precinct aggregate only 170 ballots, being 5 less than the number cast, and while the committee think that possibly it would have been best to have examined the ballots in view of the discrepancy in the statements of the officers of election as to the majority for the contestant, yet as the contestee could have had the ballots counted and the returns corrected equally as well as the contestant, the undersigned members of the committee have concluded to overrule the objections of the contestee and count for the contestant the majority of 56 as given him by the returns.

Thus, deducting these 56 votes from the majority of the contestee, heretofore reduced to 515, it leaves the contestee a majority of 459.

3. GATES'S STORE PRECINCT, PATRICK COUNTY.

The returns from this precinct, which give the contestant a majority of 54, were rejected by the county board of commissioners for two reasons—one because the judges of election were not sworn and the other because there were no returns from the precinct signed by the judges of election. The county board of commissioners was composed of two Republicans and one Democrat. They saw that the judges of election had not been sworn and that they had not signed the returns, so they summoned the judges to appear before them to sign the returns and to file certificates that they had taken the oath required by law. Ample time was given the judges to appear, but they failed and refused to do so.

The judges of election at this precinct consisted of one Democrat, one Republican, and one Independent. The two clerks were Republicans. The returns were not signed by the judges, but were signed by one of the clerks for the judges and for the other clerk, and, as the clerk who signed them claims, by their authority. The evidence shows that he signed the name of the Republican judge, A. F. Childress, in his presence, but it does not show that he signed the name of either of the other two judges in their presence. The evidence shows that all of the judges could write, and no excuse is given why they would not sign their names to the returns nor appear and sign them when summoned and given an opportunity to do so. The vote of the board of commissioners in rejecting the returns from this precinct was unanimous. This precinct has usually been a Democratic precinct.

The Republican judge, Childress, who would not sign the returns, and failed to do so when summoned to appear and sign them, testifies that he, while acting as a judge of election, distributed money and liquor to obtain votes for the contestant.

In view of these facts, the undersigned members of your committee think that the returns from this precinct were properly rejected by the county board of commissioners, and can not now be counted for the contestant.

The uniform decisions of legislative bodies and of courts of law are that a public officer can not act by an agent; that returns not signed by the proper officers, as required by law, can not be considered; that when a duty is imposed upon an officer, and his signature is necessary to make it a record, he himself must attach his signature, and he can not authorize the right to do so to any other person.

This very question has been specifically decided by this House in the following cases: *Chisman v. Anderson* (2 Cong. Elects., 769); *Bisbee v. Finley* (6 Cong. Elects., 190); *McKinzie v. Braxton* (4 Smith, 25); *Coffroth v. Coontz* (2 Bart., 32). The same doctrine is laid down, with citations from many authorities, in *American-English Encyclopedia of Law*, volume 6, pages 312-337; also in *People v. Nordheim* (99 Ill., 553); *Simon v. Durham* (10 Or., 52); *Lawrencello v. Schmaulhauser* (4 N. E. Rep., 225). A case precisely similar to this in all respects has recently been decided by the supreme court of Maine, which should control the conclusion in this matter. The language of the court is as follows:

Whenever the constitution or the statutes or a State requires the official signature of a public officer he must personally affix his signature or mark. This duty can not be executed by an attorney or delegated to another. In *Chapman v. Limerick* (56 Me., 390) this question came before the court. Mr. Justice Kent, in delivering the opinion, says: "It requires no argument to show that it was never in contemplation of lawmakers that official signatures or returns which the law requires of those holding public offices might be signed by an attorney or agent, or that they could have any legal validity unless signed by the officers, so that they should be in his own handwriting. The selectmen are required to sign the returns, but if all save one were permitted to sign by an attorney there would be no reason why the same permission should not be extended to all, and if this were allowed there might be returns counted to which none of the officers have affixed their signatures as required by law. It is to be regretted that votes are lost by the negligence or ignorance of town officers, but the obvious duty is to choose such as know their duty, and knowing it will legally perform it." (Opinions of the Justices of the Supreme Judicial Court of Maine, vol. 4, p. 587.)

In addition to the principles of law that prohibit the counting of these returns, the conduct of the judges of election in refusing to appear and sign their names to the returns when summoned, their failure to be sworn, and the fact that the Republican judge, Childress, admits using money and liquor to procure votes for the contestant, and the fact that this precinct is usually Democratic, creates a suspicion of wrongdoing which compels the undersigned members of your committee to adhere to the unanimous decision of the county board of commissioners in rejecting the returns from this precinct.

4. RIDGEWAY PRECINCT, HENRY COUNTY.

The evidence shows that at this precinct there were 53 ballots, which were improperly marked for the Presidential electors, but were properly marked for the candidates for Congress, yet they were entirely thrown out by the judges of election.

It appears that 48 of these were properly marked for the contestant and 5 were properly marked for the contestee, so if they had been counted would have given the contestant a gain of 43 votes. It is conceded that this claim should be allowed unless this precinct should be entirely rejected for reasons assigned by the contestee. The returns from the precinct give the contestant a majority there of 57. The

ground upon which the contestee claims that the returns of the precinct should be entirely rejected and the contestant deprived of his 57 majority there is as follows:

The Republican chairman of this precinct, Mr. Flanigan, and the Republican judge, Mr. Dunn, when introduced as witnesses by the contestant, testify that before the election commenced there was an understanding between the Republican voters, the Republican judge of election, Mr. Dunn, and the Republican precinct chairman, Mr. Flanigan, that the Republican voters, when they had prepared their tickets in the booth or had had them prepared by the officer designated for the purpose, should show them to Mr. Dunn, who would indicate if they were prepared properly for the Republican candidates. Mr. Dunn was designated to receive the ballots when offered by the voters and to deposit them in the ballot box. He did examine the ballots and indicated when they were prepared for the Republican candidates. The thirteenth section of the Virginia election law provides, in reference to a voter voting, as follows:

He shall fold said ballot with the names of the candidates on the inside, and hand the same to the judge of election, who shall place the same in the ballot box without any inspection further than to assure himself that the ballot is a genuine ballot, for which purpose he may, without looking at the printed inside of said ballot, inspect the official seal upon the back thereof.

The contestee contends that this conduct on the part of the Republican judge of election was a willful and a gross violation of this law, as by it he destroyed the secrecy of the ballot, and should therefore result in a rejection of the entire returns from this precinct. He insists that this action gave opportunities for the purchase and corruption of voters, but the contestee fails to introduce any evidence to show that any votes were purchased or voters corrupted by such conduct, or that the vote at this precinct would have been different had this agreement and this conduct on the part of election officer, Dunn, not existed.

Furthermore, there is no evidence reflecting on the character of Dunn or which would tend to show that he would enter into a conspiracy to purchase or corrupt voters. The undersigned members of your committee are not disposed to impute corrupt and sinister motives to a sworn election officer, against whose character nothing has been testified to; therefore a majority of your committee have determined to count for the contestant the 48 votes and for the contestee the 5 votes not included in the returns from this precinct.

Thus, deducting this net gain for the contestant of 43 from the majority of the contestee, it reduces his majority to 416.

5. DICKINSON PRECINCT, FRANKLIN COUNTY.

At this precinct 250 ballots were polled, of which the contestee received 147 and the contestant 58, and 45 ballots were rejected as being improperly marked.

The rejected ballots were sealed and returned to the clerk's office, where they now are. They were not introduced in evidence by either party. It is agreed that they were legally rejected. Mr. C. M. Zeigler, the judge of election who received the ballots at this precinct, was appointed at the special instance of Mr. Morgan, the chairman of the Republican party for Franklin County. Mr. Zeigler is a brother-in-law of Morgan and acted as judge at his special instance and request.

The contestant introduces 95 witnesses who testify that they either voted or tried to prepare their ballots for him on the day of election.

Thus he contends that he should receive 37 votes out of the 45 rejected ballots, in addition to the 58 awarded to him by the returns, because he claims that the failure of these ballots to be properly marked was due to Mr. S. L. Haynes, the judge who was appointed to aid illiterate voters.

Evidence is introduced to show that many of the 95 witnesses who testified that they voted for the contestant stated before the election that they would vote for the contestee, and even since the election have stated that they did vote for the contestee. A great many of these 95 persons, when examined, testified that they prepared their own ballots, and by their evidence they showed that they were unable to prepare them properly. The evidence shows that a great many of the illiterate negro voters who could not read or write attempted to prepare their own ballots. Witnesses examined for the contestant show that S. L. Haynes, when requested by a voter, either prepared the ballot as requested or else properly pointed out the names of the candidates so the voter could fix the ticket properly for the candidates for whom he wished to vote.

The evidence shows that Mr. P. W. Adams, the most influential Republican and leader at this precinct, voted early himself and fixed on a piece of paper an imitation of the official ballot, and with it attempted to teach the negroes the locations of the names of the different candidates and instructed them to prepare their own ballots, when they entered the booth, without asking the aid of anyone. When he was introduced as a witness by the contestant he admits this. The high character and standing of Haynes, the judge who aided illiterate voters, is proven by witnesses and party friends of the contestant. Republican witnesses introduced by the contestant testify to his high character and state that they believe that he neither would do anything wrong nor did anything wrong. The majority of the contestee at this precinct is about the usual Democratic majority during a great many elections.

It is evident that the imperfectly marked ballots at this precinct resulted from the efforts of the illiterate voters to prepare their own ballots without requesting aid from the judge designated for that purpose, acting under the instructions of Adams, the Republican leader of the precinct.

This being evident, the undersigned members of your committee have determined that the contestant is not entitled to have counted for him the 37 imperfect ballots claimed.

This disposes of all matters under dispute except seven precincts in Pittsylvania County, which we will take up in regular order.

6. SHOCKOE PRECINCT, PITTSYLVANIA COUNTY.

The complaint in the notice of contest at this precinct was that Shields refused to aid illiterate voters in marking their ballots, and that by this refusal a great many of the illiterate voters improperly prepared their ballots, and that the contestant thereby lost 28 votes. The contestant fails to introduce a single witness who testifies that Shields refused to extend to him aid when requested to do so, or that he misled him in any way.

The report of the four minority members of the committee, heretofore filed, refuses the claims of the contestant entirely as to this precinct. Thus the committee is unanimous in sustaining the returns of the election at this precinct.

7. HURT'S STORE PRECINCT, PITTSYLVANIA COUNTY.

The returns from this precinct show that 132 votes were polled, of which the contestant received 62 and the contestee received 42, while 28 were improperly marked and rejected in the count. The imperfect ballots were sealed and sent to the clerk's office, where they now are. They were not introduced in evidence. The judges of election were Adams and Green, Democrats, and East, Republican. East was appointed as a judge of election at this precinct at the special instance and request of the Republican chairman of the county. The judges alternated in preparing the ballots for illiterate voters.

The contention of the contestant is that he should have counted for him at this precinct 14 votes in addition to the number returned for him. This contention is based upon the evidence of R. T. East, the Republican judge, who testifies that he did not know how to erase properly the names on the ballots until about noon on the day of the election; that before this time he improperly marked 14 ballots that were intended for the contestant and 1 ballot that was intended for the contestee. Thus the contestant contends that 14 out of the 28 rejected ballots should be counted for him. The evidence shows that East made no such statement on the night that the ballots were counted, nor did he make any such confession until this contest was contemplated. The contestee contends that the Virginia law prohibits any ballot being counted for any candidate unless it is marked in the way prescribed by law, and it is admitted that these ballots were not so marked.

The contestee also contends that the statement of East should not be believed, since he made no such statement until this contest was proposed, and that if any credence is given to his statement, which is that he knew that he marked wrong 14 intended for the contestant and 1 intended for the contestee on account of "a peculiar mark on the ballots" made by his pencil, the ballots themselves should have been introduced by the contestant as the best evidence of the "peculiar marking." The contestee further contends that as East marked ballots for both Democrats and Republicans, and admits that he did not know how to mark them properly, the returns from this precinct, if changed at all, should be rejected entirely and the contestant deprived of the majority of 20 given him by the returns.

The undersigned members of your committee, while recognizing much force in the claims made by the contestee, yet being unwilling to see bona fide voters deprived of their votes by the ignorance of election officers, and there being no evidence reflecting on the veracity or character of East, have decided to count for the contestant the 14 votes claimed here and the one for the contestee, which would result in deducting 13 votes from the number to which the majority of the contestee has heretofore been reduced. This leaves the contestee with a majority of 402 votes.

8. MOUNT AIRY PRECINCT, PITTSYLVANIA COUNTY.

There were 105 votes polled at this precinct, of which the contestee received 42 and the contestant 32, while 31 ballots were rejected as being improperly marked. The rejected ballots were sealed and returned to the clerk's office, where they now are. It is not disputed that the 31 ballots were improperly marked and hence could not, under the law, be counted.

The claim of the contestant is that he should have received 51 votes

instead of 32 as shown by the returns, and that he is entitled to have counted for him 19 of the 31 rejected ballots.

He introduces 51 witnesses who testify that they voted for him or tried to prepare their ballots for him. As it is claimed that only 19 of the 31 ballots were intended for the contestant, it leaves 12 of them as intended for the contestee. Thus, if the contention of the contestant was allowed, it would make a difference in the returns of only 7 votes. There is no claim or proof that the returns from this precinct were fraudulent or wrongful, except in so far as they did not include imperfect ballots, of which it is claimed that 19 were rendered imperfect by Mr. Harvey, who aided the illiterate voters.

Some of the witnesses out of the 51 who testify that they voted or tried to vote for contestant are proven not to have voted, and the names of some of these witnesses are not on the poll books introduced by the contestant, and a great many of them testify that they tried to prepare their own ballots. The evidence shows that a great many of the illiterate voters prepared their own ballots. Harvey was a justice of the peace, and many witnesses and supporters of the contestant testify that he is a man of high character and standing. Not a witness testifies against the character of Harvey.

The undersigned members of your committee are satisfied that the evidence does not justify a change in the returns from this precinct, and they are convinced that the vote should remain as certified by the election officers.

9. DRY FORK PRECINCT, PITTSYLVANIA COUNTY.

The returns from this precinct show that 174 votes were cast, of which 46 were returned for the contestant and 95 for the contestee, while 33 were rejected as being improperly marked. The contestant introduces 98 witnesses who testify that they voted or tried to prepare their ballots for the contestant.

At this precinct, if all the rejected ballots were added to the vote returned for the contestant, it would make his vote 19 less than the number (98) of witnesses who testified that they voted or tried to vote for the contestant. Many of the witnesses who testify that they voted for the contestant stated that they prepared their own ballots.

The only evidence introduced by the contestee in reference to this precinct is the testimony of Norman, the judge selected to prepare ballots for the illiterate voters, and of witnesses who testify as to Norman's character and standing. No effort is made by the contestee to contradict these witnesses or to show that they had ever made statements contrary to the testimony given by them when introduced as witnesses.

They are satisfied that the contestant is entitled to a larger vote than that which has been awarded him by the returns. If the 98 claimed were awarded the contestant it would leave 76 for the contestee. The evidence shows that many of the witnesses endeavored to prepare their own ballots. Many of them so testify. Some of the witnesses in their testimony give improperly the names of the candidates for whom they say they voted or for whom they directed the judge to prepare their ballots.

It is impossible to say what would have been the result of the election at this precinct if the irregularities testified to by the witnesses had not existed.

The undersigned members of your committee are unable to determine how the 174 votes polled at this precinct should be apportioned between

the contestant and the contestee. The evidence shows that the precinct has usually been Democratic. The registered vote of this precinct is 179 white and 93 colored. The contestant, in his notice of contest, asks that "the vote of such precinct should be entirely rejected."

The law is well established that the contestant is limited to the charges and claims contained in his notice of contest. A majority of the committee determines that the law requires and that justice will be subserved by the rejection of the entire vote at this precinct, as asked in the notice of the contestant.

As the returns from this precinct gave the contestee 95 votes and the contestant 46, this would result in deducting 49 votes from the majority heretofore given the contestee, which leaves him with a majority of 353.

This disposes of the entire claims of the contestant, with the exception of his claims at the precincts of Ringgold, Design, and Stokesland. The contention of the contestant at these precincts is to have counted for him votes not cast. The number of these, as finally claimed on page 48 of the reply brief of the contestant, is 419. It should be here noted that the number thus claimed by the contestant's counsel is 76 less than the number awarded him in the report of the minority of this committee, heretofore filed.

The contestant contends that these votes should be counted for him as if cast. It is conceded that unless these votes are counted for the contestant he can not under any circumstances claim an election.

The undersigned members of your committee do not propose in this report to discuss the questions of law raised by the counsel for the contestee as to the counting of votes not cast under the Virginia election laws or as to whether the fact of the registration of these voters who failed to vote can be proved by parol evidence. Their views upon these questions have been previously filed. They desire to here state that section 125 of the Virginia Code, in defining the duties of judges conducting elections, does not permit the judge of election to receive the ballot of a voter unless his name is found on the registration books.

The contestee contends that no person could vote in Virginia unless his name is upon the registration books; that the House can not count votes not cast unless satisfied that the names of the persons desiring to vote are upon the registration books and that they are qualified voters; that the best evidence that their names are upon the books is the books themselves or a certified copy thereof, and that the contestant refused to permit the books to be introduced, although in the hands of the registrar when introduced as a witness by the contestant; that, in view of this, the contestant is now precluded from proving, by parol evidence of the witnesses, the fact of their registration. The contestee objected to every witness introduced to prove the fact of registration by parol evidence at the time of the taking of testimony and insisted that the books kept by an officer was the best evidence, and that no other evidence could be introduced, as it was shown that the books were in existence.

The registration books in Virginia, giving as they do a detailed statement of the age, occupation, place of residence, number of years that the voter has resided in the State, county, and at the precinct, etc., the contestee insisted that he was entitled to have them in evidence, not only to prove the fact of registration, but also to give him an opportunity to cross-examine the witnesses.

A majority of this committee, in the recent case of *Thorp v. Epes*, which was concurred in by the House, determined that the fact of registration could be proven by parol evidence in that case, but one of the

reasons assigned for so doing was that the contestee made no objection at the time to the proof and testimony of the witnesses as to that fact in that case. But it does not apply to the case now under discussion, since objection was made to each witness introduced to prove registration by parol evidence.

The undersigned are satisfied that this committee and the House can not take parol proof of registration. The undersigned are also satisfied, for reasons previously given, that votes not cast can not be counted in this case or under the Virginia election law.

The undersigned of your committee have carefully examined the conduct of the election at each of these three precincts separately, in order to find out whether it was such as to justify them in counting for the contestant the votes not cast.

A-10. RINGGOLD PRECINCT, PITTSYLVANIA COUNTY

At this precinct there is a registered white majority of 108. There is not a white Republican at this precinct.

The contestant insists that he should have counted for him at this precinct 72 votes of voters who failed to vote on the day of election and who, he alleges, were present and tried to vote for him. These witnesses are introduced and examined.

The evidence here shows that the time for voting was equally divided between the colored voters and the white voters, each side being given thirty minutes alternately during the day. The time given to the colored voters was equal with that given the white voters, with the exception of about fifteen minutes more time being consumed by the white voters at the conclusion of the day, the last section of time having fallen to the lot of the white voters.

There is not a witness at this precinct who complains of any delay occasioned by the challenge of voters. There is not a particle of evidence to show any intimidation, fraud, or violence toward the supporters of the contestant by which they could have been prevented from voting.

There is no evidence in the least derogatory of the character of the judges or other officers of election at this precinct. They are all proven to be reputable citizens of high standing. It is proved that the election began at sunrise and continued without intermission until sunset. It is proved that the election was orderly and quiet and that no one made any complaint during the day of any delay or illegality, and that no voters remained in the booths to prepare their ballots longer than the law allows. Some of the witnesses introduced by the contestant testify that they did not vote because they were told that it would do equally as well not to do so and to give their names to be used afterwards in testifying. Nearly all of the witnesses, in reply to the direct question asked them by counsel for the contestant as to the cause of their failure to vote, assign no fault whatever to the election officers or to any friends or supporters of the contestee. They make no complaint of any delay occasioned by anyone.

The reason mostly assigned was the fact that the polls were crowded so that it was impossible for them to reach the voting booth. Not a witness here testifies as to any intimidation, fraud, or violence being perpetrated upon them so as to in any way prevent them from exercising their elective franchise. The Virginia election law gives to each voter two and one-half minutes in the booth to prepare his ballot. This does not include the time given him to go to the judge and get his ticket and then retire to the booth. The evidence here shows that the

voters did the entire act of voting in a great deal less time than the law allows for preparing the ballot in the booth alone. The contestee introduces 24 white witnesses who testify that they were at the polls on the day of the election and tried to vote for him, but could not on account of the crowd at the polls.

They, after an exhaustive and careful examination of all the evidence at this precinct, are satisfied that the election was conducted fairly and in accordance with law; that the failure of any voter to vote was not occasioned by any fault of the election officers or friends and supporters of the contestee; that no fraud, violence, or intimidation was exercised upon the voters; and that the failure of any voter to vote was occasioned by his delay in coming to the polls, his leaving the polls too early, or his not making proper effort to vote, or from the fact that the voters were illiterate and prepared their ballots slowly. The evidence shows that many of the illiterate voters prepared their own ballots at this precinct.

The law is well established that votes not cast under circumstances like these can not be counted.

B-11. DESIGN PRECINCT, PITTSYLVANIA COUNTY.

The contestant claims that at this precinct he should have counted for him 119 votes not cast, on the ground, as stated in his notice of contest, that these voters were hindered, obstructed, and prevented from voting by partisans and friends of the contestee, including the judges and clerks of election.

The evidence shows that there is not a white Republican at this precinct; that the colored people mostly vote the Republican ticket, and that the white people vote the Democratic ticket; that the judges of the election are men of the highest character. The contestant's own witnesses testify to this. The judges went to the precinct long before sunrise and made all preparations for the opening of the polls. The polls, as required by law, were opened promptly at sunrise, the officers sworn, the ballots counted, and the reception of ballots commenced within twenty minutes.

As soon as the polls were opened, the judges decided to alternate between white and colored voters, so as to prevent any disturbance and to facilitate the voting. The evidence shows that there were very few colored voters at the polls when they opened, and that early in the day the election was delayed on account of the absence of colored voters to keep up the agreement of voting alternately. The evidence shows that the polls were not crowded until late in the day, and that many of those who failed to vote could have voted if they had come to the polls earlier. An examination of the evidence of those who testify as to this precinct shows that most of those who failed to vote here arrived at the polls after the election had proceeded for some length of time.

The evidence shows that by 4 o'clock in the day all of the white people had voted, and that after that time the colored people consumed all of the time in voting. W. W. Cobbs, the chief witness for the contestant at this precinct, states that the entire vote at this precinct could not have been polled if the officers conducted the election according to the requirements of law. Tucker, the next witness relied on by the contestant, gives as the chief reason why the entire vote was not polled the fact that the voters were illiterate and the judges had to go in the booths and assist them so much. It is not proven that a single voter occupied the booth or took a longer time to vote than the law permits.

Not a witness testifies that the judges or other persons delayed him by challenge or by taking up time in finding his name upon the registration books.

William West, James Pritchett, Henry Fouce, Grief Clark, Banks Epperson, William Grasty, and Frank Grasty, Republican witnesses, introduced by the contestant, bear evidence that the judges and other officers of election discharged their duty, voted the colored people as fast as they could, and did not in any way neglect their duty. The evidence shows that the judges of election alternated in preparing the ballots for illiterate voters. It is proved by the evidence that the election here was fair, legal, and that the failure of some of the voters to vote was the result of no fault of the election officers or of friends and supporters of the contestee. It is shown that the failure of any voters to vote was occasioned by the voters failing to come to the polls early, by their not remaining at the polls long enough, or by their not making the proper effort, or from their being illiterate, which necessitated more time in fixing their ballots.

They are satisfied that, under these circumstances, the contestant is not entitled to have counted for him the votes claimed at this precinct.

C-12. STOKESLAND PRECINCT, PITTSYLVANIA COUNTY.

The contestant claims that there should be counted for him 311 votes not cast at this precinct. The ground upon which this claim is made is that the failure to cast votes was caused by delay on the part of election officers. This precinct is situated within three-fourths of a mile of the North Carolina line. There is not a white Republican at the precinct. The colored voters at this precinct are of the most migratory habits, moving back and forth from Virginia to North Carolina, and from North Carolina to Virginia, and from the county into Danville. The evidence shows that most of the persons who testified for the contestant are without permanent vocations or permanent homes. There were polled at this precinct 326 votes, which is the largest vote that has been polled there for a great many years. The registration at this precinct was greatly increased just a short while before the election by the addition of the names of about 200 colored persons.

Mr. J. A. Stone was appointed at the request of Barksdale, the Republican chairman, and acted at his special instance. Mr. Nelson, who acted as one of the judges on the day of the election, had previously gone to Barksdale, the Republican chairman, and complained of his removal as a regular judge at the precinct, assigning as a reason for it improper motives to the leaders of the Democratic party. It is evident that the selection of Nelson to act in the place of the absent judge on the day of election was designed by Barksdale.

The polls were opened within half an hour after sunrise. This delay was unavoidable, as it was necessary to wait for the coming of a suitable person to act as clerk as well as for the coming of a person to appoint in the place of Reagan, one of the judges, who failed to appear.

The Virginia election laws provide that when a judge of election fails to appear on the day of election those officers present shall wait an hour before appointing another in his place and proceeding with the election. At this precinct the election was delayed only half an hour, as the judges present appointed the first suitable person who came to the polls.

It was agreed by the representative of the Republican party and of the Democratic party that the time at this precinct should be divided

equally between the white voters and the colored voters, and that 15 minutes alternately should be given to each, so long as both races had voters on the grounds. If either side should at any time fail to have sufficient voters present to occupy all the time allowed them the other side should be allowed the entire time. This agreement was understood and acquiesced in by all parties on the day of the election and was carried out in good faith.

The white voters had nearly all voted by 11 o'clock, after which time the entire voting time was given to the colored voters. Not a witness testifies that any friend or supporter of the contestee did anything whatever to hinder or delay the voting. There is no complaint by any witness of any delay caused by Morrison, the judge who prepared the ballots for the illiterate voters. The only complaint made of any delay is of that caused by challenging voters. The contestant makes no complaint of anyone challenging voters except Mr. Stone, the judge, whose duty it was to receive the ballots, and who was appointed by and acted at the request of Barksdale, the Republican chairman. Witnesses for the contestant bear evidence of Mr. Stone's high character and integrity; hence the only real charge of delay at this precinct is against the officer appointed at the request of and acting at the instance of the Republican chairman, and the name of no witness is given who testifies that he was challenged or delayed in casting his vote except one, Wylis Williamson, who testifies that he was challenged by Stone; but his evidence shows that the clerk, Moore, who knew him, at once told him that he knew him and that he was entitled to vote, and he was promptly voted.

The evidence shows beyond doubt that much of the delay and time lost during the day was caused by colored voters disorderly crowding around the polls during the day in such large numbers, contrary to law. A majority of the witnesses, when examined, in their replies to the direct question asked them by counsel for the contestant as to why they failed to vote, made no complaint against the election officers, but assigned as a reason the fact that the polls were so crowded that it was impossible under the law to poll the vote. The evidence shows that a delay of about twenty minutes was caused by one Williamson, a Republican, who insisted upon voting, although he had been transferred from this precinct to the city of Danville. He was so insistent that the officers had to threaten to arrest him before they could get rid of him and thus enable the election to proceed. The evidence shows that no person consumed in preparing his ballot and voting more time than the law permits. It is shown that the supporters of the contestee voted very rapidly when their turn came.

The voters, on an average, consumed about half as much time in casting their ballots as the law permits.

Complaint is made that the county judge failed to divide this precinct by establishing a new precinct, and thus increase the accommodation for polling the vote as petitioned.

The evidence shows that only 32 persons united in the petition to the court to have a new precinct established for them. The court refused to do this on account of the small number desiring it and the great expense that would arise from creating new precincts for so few voters. The evidence in this case also shows that no evidence was presented to the court to show the necessity for establishing a new precinct here until the 21st day of September, 1896, which was only forty-two days before the election. This was too short a time under the Virginia law for notices to be posted, a new registration ordered,

and judges of election appointed so as to have permitted the voters to vote at the new precinct at that election.

Had this petition been granted it would possibly have occasioned in this election case a complaint that the court, on the eve of the election, created a new precinct and thus deprived voters of the opportunity of qualifying themselves in time to vote.

The undersigned of your committee, after a most careful examination of the evidence, are satisfied that the failure to cast votes at this precinct was not occasioned by any fraud, intimidation, or violence on the part of the election officers or of the contestee or of any of his friends and supporters, and if there was any delay other than such as was unavoidable it was caused by the colored voters rushing up to the polls in a disorderly manner and in great numbers, thereby obstructing and delaying the election until they could be induced to return to the limits prescribed by law and permit the election to proceed in an orderly manner.

Thus they think that, under the law and evidence in this case, no votes not cast at this precinct can be counted for the contestant.

They are further satisfied that, even if it had concluded to count for the contestant the votes not cast at these three precincts, it could not under any circumstances count enough to overcome the contestee's majority of 353, to which it has been shown that he is clearly entitled, because it is shown that many of the 419 witnesses who are claimed by the contestant are not registered as required by law; that many had not been residents of the State and county the length of time required by law; that many of them had not resided within the limits of the precinct for a sufficient time under the law; that many did not make sufficient effort to vote; and that many were disqualified for various other reasons. If these should be deducted from the number claimed by the contestant, the number then given him could not deprive the contestee of a majority.

They are also satisfied that the depositions taken on the 1st of March, 1897, having been taken after the time fixed by law, can not now be considered.

The contestee's answer was served on the contestant on the 19th of January, as shown by the returns of the sheriff of Henry County on same, and it is conceded that if this is correct these depositions were taken after the time allowed by law and can not be considered.

An effort is made by the contestant, and also by the minority of this committee in their views heretofore filed, to destroy this return of the sheriff on account of a mere memorandum that someone has made on the cover of the answer stating that it was served on the 20th. This date does not purport to be the date of the answer. It is simply a memorandum made on the cover, was not signed, and no one knows when or by whom it was put there.

They can not concur in the proposition that the official return of a sheriff may be nullified and vacated by such flimsy evidence, for which no one vouches. The sheriff who made this return is a Republican supporter of the contestant and lives in his home county.

It is well established by numerous decisions of the House of Representatives that evidence taken after the time allowed by law can not be considered. Unless this evidence is considered the contestant must fail in this case, because there is no evidence except such as is taken on the 1st of March to show that a vast majority of the voters who failed to vote resided, as required by law, within the bounds of the precinct where they claimed the right to vote. The contestee insists that he is

not called upon to disprove evidence taken after the time allowed by law for the taking of the evidence.

If this evidence is excluded, as it should be, it will render it impossible, under any circumstances, to count as many as half of the votes not cast and claimed by the contestant, and this alone would leave the contestee a safe majority.

The contestee insists that Indian Valley precinct, in Floyd County, which gave the contestant a majority of 249, should be rejected. The ground upon which this claim is made is that Milton Quessenbery, a Republican and supporter of the contestant, took it upon himself, against the wishes of the other two judges and at their protest, to prepare the ballots for the illiterate voters and that he did prepare them during the greater part of the day. The contestee insists that this action is contrary to the Virginia statutes, which expressly provide that no person shall aid or advise any voter as to how to prepare his ballot except one of the judges selected for that purpose by two of the judges.

The contestee, however, fails to introduce any evidence to show any fraud at this precinct or that he lost any votes by the action of Quessenbery. We are unwilling, without proof of fraud, clear and distinct, to impeach the returns of this precinct. We therefore deny the claims of the contestee and are satisfied that the returns from this precinct should be counted.

This fully disposes of this case as presented in the evidence. The undersigned, having made the most exhaustive and careful examination of the evidence, are satisfied that the contestee, Mr. Swanson, is entitled to his seat in the Fifty-fifth Congress by a majority of at least 353, as given above and shown by the following summary:

Contestee's returned majority	551
Votes to be counted for contestant:	
Court-House precinct	36
King's Store precinct	56
Ridgeway precinct	43
Hurt's Store precinct	14
Dry Fork precinct	49
	— 198
Contestee's majority	353

They therefore recommend the adoption of the following resolutions:

“Resolved, That John R. Brown was not elected a Representative in the Fifty-fifth Congress from the Fifth Congressional district of the State of Virginia, and is not entitled to a seat therein.

“Resolved, That Claude A. Swanson was duly elected a Representative in the Fifty-fifth Congress from the Fifth Congressional district of the State of Virginia, and is entitled to a seat therein.”

R. W. MIERS.

R. E. BURKE.

S. BRUNDIDGE, Jr.

DESTRUCTION OF THE U. S. BATTLE SHIP MAINE.

APRIL 13, 1898.—Ordered to be printed.

Mr. ADAMS, from the Committee on Foreign Affairs, submitted the following

R E P O R T .

[To accompany H. Res. 233.]

The Committee on Foreign Affairs, to whom were referred House joint resolutions Nos. 54, 58, 86, 94, 173, 186, 193, 200, 201, 204, 205, 206, 207, 208, 209, 210, 211, 212, 217, 219, 220, 224, and 231, and House resolutions Nos. 256 and 279, and House concurrent resolutions Nos. 5 and 28, and Senate joint resolution No. 26, having fully considered the same and the numerous petitions relating to the same subject, report the accompanying joint resolution as a substitute for the said several resolutions, and recommend its adoption. The committee refer to the facts set forth in the message of the President to Congress dated April 11, 1898, to the consular reports accompanying it, and to the report of the naval court of inquiry upon the destruction of the U. S. battle ship *Maine* in Havana Harbor, February 15, 1898, in support of the joint resolution herewith reported.



SUSAN D. YATES.

APRIL 14, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 1623.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1623) granting an increase of pension to Susan D. Yates, have examined the same and respectfully report:

This bill as amended proposes to increase from \$30 to \$40 per month the pension of Susan D. Yates, of Portsmouth, N. H.

Arthur Reed Yates was appointed acting midshipman in the United States Navy September 24, 1853, and graduated June 10, 1857, served through the civil war with honor and distinction, rose to the rank of captain in the Navy, and died in the service from diseases and disabilities incurred therein and in line of duty November 4, 1891.

He was a most brave, fearless, and efficient officer, and remained on duty when suffering from severe disabilities. This claimant was his faithful wife during nearly thirty years of his service, and while he was in a very serious condition physically was his devoted nurse and attendant.

She is now in necessitous circumstances and has to contribute from her present pension to the support of her aged invalid father.

The case is an exceptionally meritorious and deserving one, and your committee therefore report the bill back with the recommendation that it pass, when amended as follows:

In line 6, after the word "Navy," insert "and pay her a pension."

Line 7, strike out the word "fifty" and insert in lieu thereof the word "forty."

FOSTER C. CARL.

APRIL 14, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9195.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9195) granting a pension to Foster C. Carl, have examined the same and the evidence relating thereto and respectfully report.

This bill as amended proposes to pension, at the rate of \$18 per month, Foster C. Carl, of Binghamton, N. Y.

This soldier enlisted in 1862 in Company I, First Regiment of New York Mounted Rifles, and served until the close of the war, when he was honorably discharged. He was only 17 years of age when he enlisted, and the consent of his parents was obtained by Capt. George H. Dean, who commanded the company and recruited it. He was a strong, healthy young man when he entered the service, and was a good soldier, always ready for duty, and never flinched. This is shown by the testimony of his captain. He was taken sick about April 8 or 9, 1865, at Summerton, N. C., and was carried in an ambulance to the hospital at Petersburg, Va. After a few days he returned to his regiment and went from there to Fredericksburg, Va., but was not able to do any duty. He was granted a sick leave for thirty-five days, and was taken down with malignant typhoid fever, and was confined to his bed until March, 1866. He was attended by physicians whose affidavits are on file.

This sickness resulted in a permanent disease of the head and air passages and throat and bronchial tubes. Matter was discharged from the ears, and the throat continually filled with phlegm. It resulted in a permanent disability in the nature of a catarrhal trouble, and a disease of the throat and general debility.

The soldier seems to have suffered from a malarial poisoning, and is in a general feverish condition. The hearing and eyesight of the soldier is now seriously affected, and he suffers constantly from the same trouble of a catarrhal nature and is emaciated and physically unable to do but little work.

At the time he was taken down with the sicknesses referred to he had been in the saddle with his command for fifteen consecutive days

and nights, being on the march nearly every night and engaged with the enemy nearly every day. Two special engagements were those at Jacksonville and Summerton, N. C.

There is no pretense that the soldier's disabilities are the result of vicious habits on his part, as he is shown to be a man of good character and correct life.

The soldier's claim for a pension has been refused on the ground that there is no pensionable disability as the result of army service. As all the disabilities from which the soldier suffers are shown to be of service origin, there is little excuse for this claim at the Pension Bureau. It is not pretended that he has incurred these disabilities since he left the service, and as he was strong and healthy when he entered the Army, and came out of it sick and broken down as the result of precisely the same diseases from which he now suffers, and as he had been under treatment therefor for some length of time before his discharge, it is difficult to understand how the medical referee could have arrived at the conclusion he did.

Dr. R. D. Eastman, of Berkshire, N. Y., Dr. George M. Hall, of Binghamton, N. Y., and Dr. Thomas B. Van Alstyne, of Binghamton, N. Y., physicians of long experience, testify to his physical disabilities and to his inability to perform manual labor. They have known the soldier for years and have treated him and given him frequent examinations. Two of these physicians have been members of a medical board of examiners for many years, and as they are men of the highest character and standing and have no interest in the claim whatever, it is the presumption that they state nothing but the truth. As the soldier contracted his diseases and disabilities in the service and as the result of hardships he there endured, it appears to your committee that a clear case is made for a reasonable pension. The soldier has exhausted his remedy at the Bureau and Congressional action is therefore warranted.

The soldier is in necessitous circumstances without fault on his part, as he gave his strength to his country when a mere boy, and has struggled for a livelihood under adverse circumstances from that time until the present.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 6 strike out the word "thirty" and insert in lieu thereof the word "eighteen."

NEW YORK, *March 29, 1898.*

DEAR SIR: The bearer, Foster C. Carl, I enlisted in year 1862, at his home in New York State. At the time he was not 21 years old, and consequently I was obliged to get the consent of his father to enlist him in legal form. At the time he was a strong, healthy young man, and, pursuant to enlistment, made a good soldier, always ready for duty and blessed with plenty of courage. Since the close of the rebellion I have seen him several times, and, to my best knowledge, he is physically unable to perform a day's manual labor.

Truly, yours,

Capt. GEO. H. DEAN.

Hon. GEORGE W. RAY.

N. B.—Capt. George H. Dean resigned 1863.

F. C. CARL.

BINGHAMTON, N. Y., *April 2, 1898.*

Thomas B. Van Alstyne, duly sworn, deposes and says that he is a practicing physician living and practicing in Binghamton, Broome County, N. Y.; has practiced medicine seventeen or eighteen years; knows Foster C. Carl and has acted as his family physician for past four years; from his own personal knowledge, acquired by

examining said Foster C. Carl, can state, as regards present physical condition of said Carl, that the man is not now capable of severe manual labor, and in opinion of deponent never will be again.

That said Carl is now just convalescing from an attack of acute bronchi-pneumonia, which has confined him to the house for past four weeks, and that his system is so weakened and the condition of his air passages so changed by reason of long-continued chronic catarrh of pharynx, larynx, and trachea and bronchial tubes, as well as the nasal passages, that his complete recovery is improbable, and in any event it will take months for him to recover even his ordinary health. The pharynx and larynx show parts where the mucous membrane is thickened very much, and in other parts where there have apparently been ulcers, leaving scars to show the loss of tissue.

That the catarrhal disease has affected his hearing to a considerable extent, and his voice is so hoarse from the chronic inflammation of the vocal cords as to be almost unintelligible at many times. He is incapacitated more than one-half from the performance of hard manual labor. That he has no interest in any claim for pension now pending in any manner whatever.

This affidavit was written without prompting by anyone or comparison with other affidavits, being a true statement of the physical condition of said Foster C. Carl at date of examination and of the making of this writing.

THOMAS B. VAN ALSTYNE, M. D.

Subscribed and sworn to before me this 2d day of April, 1898.

[SEAL.]

JAMES F. PETTIT, *Notary Public*.

STATE OF NEW YORK, *Tioga County*, ss:

On this 5th day of April, 1898, personally came before me, a notary public in and for the county of Tioga, State of New York, R. D. Eastman, a citizen of Berkshire, and whose post-office address is Berkshire, N. Y., well known to me to be responsible and entitled to credit, and who, being duly sworn, declares in relation to the said case as follows: That he is a practicing physician of twenty years' standing, and that he has known Foster C. Carl during this time; that he treated the said Carl from May 21, 1878, to October 3, 1878, and also at intervals since that time (the dates of such treatment he has no record of), for disease of the air passages; that during the summer of 1878 the said Carl was totally incapacitated from performing manual labor by reason of said disease. Because of the removal of said Carl from this vicinity he is unable to state the degree to which he has been incapacitated since that time.

Whenever under my observation since 1878 the said Carl has suffered from laryngitis, pharyngitis, and posterior nasal catarrh, and resulting cough and expectoration, and huskiness of voice, which at times is reduced to a whisper.

The above affidavit was written by him without the dictation of any other person and without the aid of any written or printed matter whatsoever, and that he has no interest, direct or indirect, in the prosecution of this claim.

R. D. EASTMAN.

Subscribed and sworn to before me this 5th day of April, 1898.

[SEAL.]

R. O. ELDREDGE, *Notary Public*.

BINGHAMTON, N. Y., *April 4, 1898*.

This is to certify that I have examined Foster C. Carl, of Binghamton, N. Y., and that he is suffering from a chronic throat trouble. His throat is reddened and inflamed, and shows marked evidence of old inflammation, and, at times, to my knowledge, he is very hoarse and suffers greatly from difficulty from the same.

I have been acquainted with him for thirteen years, and during that time I do not consider that he has been able to do more than one-half of a day's work a day. I understand that this statement is to be presented to the Pension Department. I am in nowise interested in said claim, and this statement is without dictation.

GEO. NEWELL HALL, M. D.,

President United States Pension Board, County of Broome.

STATE OF NEW YORK, *county of Broome*, ss:

George N. Hall, being duly sworn, says that the above statement was made by him and that the same is true, as deponent verily believes.

GEO. NEWELL HALL.

Subscribed and sworn to before me this 4th day of April, 1898.

[SEAL.]

ARCHIBALD HOWARD, *Notary Public*.

This is to certify that I have known Foster Carl before and since the civil war.

I went with him to a specialist on catarrh, in the year 1867, who gave him treatment for the same. I am confident that he contracted the disease in the service, because he was a healthy boy before he entered the war.

I further know that he has been unable to labor at intervals since.

A. J. KEACH.

Subscribed and sworn to before me this 2d day of April, 1898.

[SEAL.]

B. H. NELSON, *Notary Public*.

BINGHAMTON, N. Y., *March 16, 1898.*

DEAR SIR: Received your communication of the 14th notifying me that your Bureau had rejected my claim for pension on the ground of no disability under a pensionable degree, but do not feel discouraged at that, knowing that if I can present the facts to you as I know them to be there will be no trouble in passing a pension bill for my relief, and will proceed to give you facts, condensed as much as possible, for your memorandum in making up the bill.

Enlisted Carmel, Putnam County, 1862, under Capt. George H. Dean, in First New York Mounted Rifles. Not being old enough, obtained parents' consent. I was born September 16, 1845.

First serious sickness on the 8th or 9th of April, 1865, at Summerton, N. C. Taken in ambulance to hospital at Petersburg, Va. After four days returned to regiment camp, near smallpox hospital, Richmond, Va. From there went to Fredericksburg, Va., not able to do any duty. Granted sick leave for thirty-five days. Taken down with malignant typhoid fever in June, 1865. Confined to the house and bed until March, 1866. Attended by family physician, Dr. Nicholson, of Beakmanville. Also attended by Dr. Fowler, Fishkill, at same time, and Dr. Tallman, of Greenhaven, N. Y., whose affidavit is on file in Pension Department. Dr. Fowler died in 1880. After this sickness, discharged large amount of matter from ears, and throat continually filled with phlegm. Commenced treatment for catarrh in summer of 1866. Was treated by specialist, and can furnish affidavit to that effect, and have been treated ever since by numerous doctors—Dr. Gay, Dr. Johnson, Dr. Bishop, Dr. Morgan, Dr. Dayton, Dr. Merryfield, Dr. Kingsley, Dr. Hamilton, Dr. Agnew, Dr. Eastman, Dr. Orton, Dr. Van Alstyne—and am now being treated by Dr. R. Dimon, of Hastings, N. Y.

The above doctors' addresses and affidavits I can give you if necessary. Am now confined to the house with catarrh and lung trouble. I have not done a day's hard work since I left the Army, as anything but moderate exercise sets me in a flutter and causes feverish flashes and thumping in the head which completely upsets me for a time. The fact is that I have spent a fortune for treatment, and was too proud to ask Uncle Sam to do anything for me. I was always in the saddle and ready for duty while in the Army, as the company's record will show, but our last raid was enough to kill most anyone. I was in the saddle for fifteen days and nights, except when feeding, and for several days was soaked to the skin.

I was taken sick at Summerton, N. C., and got completely chilled through, so I could not even ride my horse, and let the captain have him, as the captain's horse had a sore back.

I feel that the Government has had my best days; that I lost my health in the performance of my duty. I have spent more money to recover my health than the Government ever paid me, and that in equity I am entitled to a favorable consideration as one who was young, strong, and robust and lost my health in the service of Uncle Sam after doing everything for the Government that any soldier could do.

If you will kindly notify me of any affidavits you may wish please let me know, and I will gladly furnish them if possible.

I inclose a letter sent me from Dr. Eastman, which explains itself.

I feel sure that there will be no trouble in obtaining my just dues, and if my presence is needed for examination at any time I will gladly present myself for same.

Thanking you in advance for anything you can do for me, besides seeing you well paid, I remain, yours, in F., C., and L. and F., A., and M.,

FOSTER C. CARL.

Hon. GEORGE W. RAY, *Washington, D. C.*

BINGHAMTON, N. Y., *April 5, 1898.*

The cause of my sickness when I was given a thirty-five day sick leave on June 15, 1865, was from exposure and excessive fatigue, having been in the saddle for fifteen consecutive days, and nearly every night, and in two engagements (Jacksonville and

Summerton, N. C.). The day after the ~~night~~ at Summerton I was taken very sick and was put in ambulance and sent to a hospital at Petersburg, where I remained for two or three days, when I was able to go to my regiment in camp, near a smallpox hospital, Richmond, Va. Went from there to Fredericksburg, Va. Was not able to do full duty any time after I was taken sick at Summerton.

I had a cold and coughed quite often, weak and feverish, and was running down so that my captain, Thomas Farigrieves, obtained a furlough for me. I got home at Green Haven, Dutchess County, N. Y., the 19th of June, 1865; was able to be around only a few days, when I came down with malignant typhus fever, and was unable to be out until April, 1866. The fever left me with a cough and a rattling in my ears. In fact, I had a gathering in one ear which broke and run. I took medicine for a cough and a tonic all summer; was examined in the winter of 1866 or 1867, and took treatment for catarrh, which treatment I continued until 1868, when I commenced taking treatment from Dr. S. W. Dayton, of Great Bend, Pa.; continued his treatment most of the time until 1873.

Then I went to Ithaca, N. Y., and was examined by Dr. Bishop, of the firm Bishop & Morgan, who said I had throat consumption, caused by catarrh. He gave me treatment, and said if that did not help me he knew of nothing that would. His treatment did me little or no good. I was then treated a short time by Dr. Johnson, of Speedsville, N. Y.; then by Dr. Gay, of Berkshire, N. Y., who, after finding he could do me no good, advised me to go to Dr. Kingsley, of Rome, N. Y. I went, was examined, and treated. Receiving no help, I then commenced treatment with Dr. Eastman, of Berkshire, N. Y., who, after a time, helped me. Shortly after commencing his treatment I grew worse and was taken to New York to be examined by Dr. Hamilton; was also examined by Dr. Agnew, of New York, both of whom sanctioned Dr. Eastman's treatment, after reducing the medicine I was taking, which they claimed was stronger than my constitution would bear.

Have taken Dr. Eastman's catarrh treatment most of the time up to the present. From 1866 to 1873 I was on a farm of my own, and could work most of the time at light work. Have never been able to do hard labor since the war. From the year 1873 to 1879 I was totally disabled from any work. From then until 1898 I was foreman on lumber yard, and was not required nor expected to work. I should have made an original application for pension on grounds of catarrh contracted in the service, but Mr. Crosby, the pension attorney, put my claim on grounds of malarial poisoning of the system from typhus fever. You will find affidavit of First Sergt. William Jenkins on file. My captain, Thomas Farigrieves, whose affidavit I tried to obtain at the time I applied for pension, I learned was dead.

Dr. Tallman's affidavit is on file. Dr. Dayton, Dr. Johnson, and Dr. Bishop are dead. Dr. Johnson's and Dr. Gay's affidavits are on file, as well as James B. Davidge's, Andrew Keach's, and John Keach's. I inclose you affidavits from Dr. Hall, who examined me for pension in August, 1897, also affidavit of Dr. Van Alstyne. I also have sent for an affidavit from Dr. Eastman and Senator Dr. Johnson, which I have not as yet received. Think they may have mailed them to you. If they send them to me I will forward them immediately. I also wrote to a Mrs. Allen, of New York City, through whose kindness I obtained an examination from Dr. Hamilton and Dr. Agnew, for a statement that she accompanied me at that time. Have not received an answer as yet, and do not know as she is living.

I also send you an affidavit from A. J. Keach, who was present when I was examined for catarrh in the winter of 1866 or 1867. In that last communication to you, substitute Dr. Van Alstyne in place of Dr. Dimon, as I only took a few treatments from him, which were previous to my present ailment.

FOSTER C. CARL. [SEAL.]

Subscribed and sworn to before me this 5th day of April, 1898.

[SEAL.]

JAMES F. PETTIT, *Notary Public.*

COURT OF PRIVATE LAND CLAIMS.

APRIL 14, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HAGER, from the Committee on Private Land Claims, submitted the following

REPORT.

[To accompany H. R. 6095.]

The Committee on Private Land Claims, to whom was referred the bill (H. R. 6095) to confer on the Court of Private Land Claims jurisdiction to try and determine the title to a part of the Ysleta grant, situate in Donna Ana County in the Territory of New Mexico, has given the same careful examination, and find the facts to be that the sole purpose and effect of the bill is to give to said court jurisdiction to pass upon the title of the city of Ysleta to that part of the grant made by the governor of the State of Chihuahua upon the order of the Congress of the State of Chihuahua in the year 1828, which is now included in the Territory of New Mexico.

It appears that the original grant was made to the Rancho de Ysleta at a time when both Texas and New Mexico were a part of the domain of Mexico. The city of Ysleta and the greater part of the grant fell within Texas, over which portion the United States, of course, has no jurisdiction as to title, but the portion of the grant that fell into New Mexico is subject to the jurisdiction of the United States as to title. Owing to the peculiarity of the grant, it not being of the class of grants or claims included in the act creating the Court of Private Land Claims, it has been held by that court that it has no jurisdiction to try and determine the title to that portion of said grant situate in New Mexico, owing to the fact that it does not fall clearly and technically in the class of grants specifically named in the act creating that court.

The United States does not claim the land, or any part of it, nor does it appear that any one is asserting any title to it adverse to the city of Ysleta, but it appears to your committee that the character of the land is such that it is useless and worthless without irrigation and that a large capital is necessary to irrigate it and render it useful. It is represented that the capital to do this can only be had when a court of competent jurisdiction has pronounced upon the title. Your committee, coinciding with the well-established policy of our Government to have all such titles definitely settled so as to induce the improvement and utilization of the land, do, therefore, recommend that the bill do pass.

REPORT OF THE COMMITTEE ON THE REVISION OF THE CODE OF MEDICAL ETHICS

The Committee on the Revision of the Code of Medical Ethics, organized in 1909, has the honor to submit to the Association the following report.

The Committee, from the Committee on Ethics and the Committee on the Revision of the Code of Medical Ethics, has the honor to submit the following report.

REPORT

Presented at the Annual Meeting of the American Medical Association, Chicago, Ill., May 1, 1914.

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RIGHT OF WAY FOR THE ILLINOIS AND MISSISSIPPI CANAL.

APRIL 14, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 9875.]

The Committee on Interstate and Foreign Commerce, who have had under consideration the bill (H. R. 4223) to authorize the Secretary of War to acquire the right of way for the Illinois and Mississippi Canal through the bridge owned by the city of Moline, in the county of Rock Island, in the State of Illinois, across Rock River, in the said county of Rock Island, beg leave to make the following report, to wit:

The report of the Committee on Commerce of the Senate on a similar bill (S. 2881) pending in the Senate, is such a clear and full statement of the merits of the foregoing bill that your committee adopts the same as its own report in the following language, to wit:

The Rock River is a stream flowing through the western portion of the State of Illinois a distance of nearly 300 miles and emptying into the Mississippi River near the city of Rock Island, Ill.

A few miles above the city of Rock Island, on the same side of the river, is situated the city of Moline, the owner of the bridge referred to in the bill under consideration. In the rear of the city of Rock Island, crossing the Rock River about 3 miles above its mouth, are two bridges, one known as the "Rock Island and Peoria Railway Bridge," and the other the "Rock Island and Milan Wagon Bridge," both constructed under acts of the legislature of the State of Illinois long before the construction of the Hennepin Canal, hereinafter referred to.

About 5 miles above these bridges is the Moline wagon bridge. This bridge was originally constructed under an act of the legislature of the State of Illinois, passed February 14, 1855, authorizing the construction of the bridge without the construction of a draw, and with authority to collect toll for crossing the bridge. The bridge was originally constructed by a private company which afterwards transferred the same to the city of Moline, which, since it became the owner, has twice rebuilt the bridge.

About 8 miles above the Moline bridge is the bridge of the Chicago, Rock Island and Pacific Railroad. This bridge has also been constructed under the authority of an act of the legislature of Illinois, and is without a draw. There is some question whether the Rock River is or has been a navigable stream within the purview of the law. The facts tending to show its nonnavigability are these:

First. That the field notes of the original survey of the townships in which the foregoing bridges are located fail to show that the Rock River was navigable,

2 RIGHT OF WAY FOR THE ILLINOIS AND MISSISSIPPI CANAL.

although the surveyor crossed it more than a dozen times in running the section lines of said townships, and although he was required by the regulations governing the survey of public lands to note in his field notes the fact of the navigability of all streams intersected by the lines of survey.

Second. That while the legislature of the State of Illinois, by various acts between 1836 and 1850, declared various rivers, streams, and creeks navigable, yet no act was ever passed declaring the Rock River a navigable stream.

Third. That the legislature of the State of Illinois, by various acts, authorized the construction of several bridges across the Rock River without requiring any draws in such bridges, and without requiring them to be constructed at such heights as to admit of navigation; and

Fourth. That in 1866 and 1867 the Government of the United States made a survey of the Rock River for the purpose of determining what was necessary to be done in order to render the river navigable, and from this report (H. R. Ex. Doc. No. 15, Fortieth Congress, first session) it appears that from Lake Horicon, in southern Wisconsin, to the mouth of the river, a distance of 285 miles, it would be necessary, in order to obtain navigation, to construct a canal from Lake Horicon southward a distance of $117\frac{1}{2}$ miles, and that the remainder of the river below the end of the canal, a distance of $167\frac{1}{2}$ miles, could only be made navigable by means of slack-water navigation, through the erection and maintenance of 65 locks, and that the cost of the entire improvement would be \$14,783,370.

No attempt has ever been made by the Government of the United States to inaugurate, in any manner, the improvement contemplated by this survey, nor any other improvement, except on a small reach of the river, incident to the construction of the canal hereinafter mentioned.

In 1888, by the river and harbor act of that year, the Secretary of War was authorized and directed to locate a canal from the Illinois River, at or near the town of Hennepin, to the Mississippi River, at or above the mouth of Rock River, to be known as the Illinois and Mississippi Canal, but commonly called the "Hennepin Canal." This canal was not located for the purpose of making the Rock River navigable, but for the purpose of connecting the waters of the Mississippi River with the navigable portion of the Illinois River from the mouth of Rock River. The construction of the canal was begun some years ago, and began on the south bank of the Rock River, near its mouth, and extended from thence, on that side of the river, to the Rock Island and Peoria Railway Bridge and the Rock Island and Milan Wagon Bridge, a distance of about 3 miles, and from thence, on the same side of the river, to near the head of Carrs Island, a farther distance of about $11\frac{1}{2}$ miles. At this point the canal enters the river through a dam, constructed from the south side of the river to Carrs Island, and from thence to the north side of the river.

By means of this dam the river is utilized and made into a canal for a distance of 8 miles, when the canal again finally leaves the Rock River in a southeasterly direction toward the Illinois River. It is this 8-mile reach of the river, which has thus been made into a canal and utilized for that purpose by means of a dam, which is the only portion of the Rock River the Government of the United States has assumed jurisdiction over and has sought to improve.

From the dam at the head of Carrs Island to the Moline Bridge is a distance of $2\frac{1}{2}$ miles, and from there to the point where the canal finally leaves the river is a distance of $5\frac{1}{2}$ miles, and from there to the Chicago, Rock Island and Pacific Railroad Bridge, without a draw and an obstruction to navigation, is a distance of $2\frac{1}{2}$ miles. It is solely through the fact that the Government has constructed this dam, and thus canalized the river on this 8-mile reach, that the Moline Bridge has become in any sense an impediment to navigation.

The Rock Island and Peoria Railway Bridge and the Rock Island and Milan wagon bridge, in the rear of Rock Island, are vital and essential to the commerce and traffic of the city of Rock Island, and in like manner the Moline wagon bridge is vital and essential to the commerce and traffic of the city of Moline. In the case of the former bridges the construction of the canal necessitated the construction of drawbridges over the canal, which bridges have been constructed and are maintained at the expense of the United States Government, pursuant to the following provision of the river and harbor act of 1892:

"That in acquiring the right of way by agreement or otherwise for the crossing of existing public highways over the parts of the canal constructed on land, the basis of agreement or condemnation shall be the construction and maintenance of bridges by the United States Government, as provided for in the detailed plans and estimates heretofore submitted to Congress."

In like manner the canalization of the river by means of the dam at the head of Carrs Island will necessitate the construction of a draw in the Moline wagon bridge, which was not necessary before the construction of the dam.

Without undertaking to determine the question of the navigability of Rock River, we believe that inasmuch as it is the law that "in the absence of legislation and of

assumption of jurisdiction on the part of Congress, a State may authorize a navigable stream within its limits to be obstructed by a bridge or highway" (*Cardwell v. The American Bridge Company*, 113 U. S., 205; *Willamette Iron Bridge Company v. Hatch*, 125 U. S., 1); and, therefore, that the bridge in question was lawfully constructed and maintained under the authority of the State legislature, and that while it is within the power of Congress to assume jurisdiction and control over the Rock River, and for the purposes of navigation cause the bridge to be removed, yet that, inasmuch as the bridge, prior to the construction of the canal, was a lawful structure, and inasmuch as the Government has already assumed the construction of and maintained suitable bridges and draws for the Rock Island and Peoria Railroad and the Rock Island and Milan wagon road, in view of the special facts of this case it would be no more than equitable and just to accord the same help and assistance to the city of Moline in respect to the Moline wagon bridge.

While the case of the *Monongahela Navigation Company v. United States* (148 U. S., 312) does not expressly decide that in a case like that of the Moline bridge the city of Moline would be entitled to compensation, yet it lays down principles and affirms a doctrine in such terms as to indicate, in the opinion of at least some members of your committee, that in a case such as that of the Moline bridge the city of Moline would be entitled to compensation for the loss and destruction of its bridge.

Possibly there may be some question raised as to whether the Secretary of War has authority, without the direct intervention of Congress, to order the removal of the Moline bridge. The decisions of the courts in the cases of the *United States v. Keokuk Bridge Company* (45 Fed. Rep., 178), and *United States v. Rider* (50 Fed. Rep., 406), would indicate that he had no such power; but whether he has or has not is not really material for the purposes of this case, for, at all events, Congress has such power, and if it has not already done so, it has manifestly the authority to order the removal of the bridge in question.

The question is, after all, one of compensating the city of Moline in some form for the change or rebuilding of the bridge. Inasmuch as the Government has, at its own expense, constructed suitable bridges, with draws, at the crossing of the Rock Island and Peoria Railway Bridge and the Rock Island and Milan wagon bridge, it would seem to be just and equitable that the Government should take the same course in reference to the Moline Bridge.

Your committee accordingly recommend that the sum of \$25,000, or so much thereof as may be necessary, be appropriated for the change and rebuilding of Moline Bridge, so that it will no longer remain an impediment or obstruction to navigation; that such change and rebuilding of the bridge be done upon plans prepared by and under the direction of the Secretary of War.

Your committee recommend the passage of the substitute bill herewith submitted.

SARAH FRY.

APRIL 14, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUDENSLAGER, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 8950.]

The Committee on Pensions, to whom was referred the bill (H. R. 8950) granting an increase of pension to Sarah Fry, have considered the same and respectfully report as follows:

The claimant is the widow of Henry Fry, late purser in the United States Navy, war of 1812, and she is now a pensioner at \$12 per month under the war of 1812 general pension act of March 9, 1878.

An affidavit of Dr. Alexander M. Mecray and Robert F. S. Heath, reputable citizens of Camden, N. J., sets forth that Mrs. Fry is 79 years old, totally incapacitated for any kind of work, and dependent upon the exertions and labor of her two daughters for support.

There are several precedents for the allowance of an increase of pension to the aged and needy widows of soldiers and sailors of the war of 1812, and your committee believe that such precedents may safely be followed in this case. Henry Fry's service covered the period from February, 1813, to March, 1814. He and the claimant were married December 27, 1841, and he died November 26, 1859.

The passage of the bill is respectfully recommended.

FELIX TAIT.

APRIL 14, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STALLINGS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 9140.]

The Committee on Pensions, to whom was referred the bill (H. R. 9140) increasing the pension of Felix Tate, have had the same under consideration and respectfully report as follows:

The claimant was a private in Captain Green's Company, First Texas Mounted Rifles, and served from July 19 to October 2, 1846, in the Mexican war.

He was allowed the pension of \$8 per month under the provisions of the Mexican war service-pension act of January 29, 1887, and this rating was subsequently increased to \$12 per month upon proof, under the act of January 5, 1893, of dependency and inability to earn a support by manual labor.

Mr. Tate is about 76 years old, a sufferer from adhesions and stricture of the bowels, which he attributes to chronic diarrhea incurred during his service, and from disease of the heart.

It is further shown by the testimony before your committee that the claimant is wholly without property or means of support aside from his small pension, and that he has an aged wife dependent upon him for maintenance. He has no children or near relatives to whom he can look for aid.

The passage of the bill is respectfully recommended with the following amendments:

Change the spelling of claimant's surname to "Tait."

Strike out the word "fifty" in line 5 and substitute therefor the word "twenty."

WILLIAM L. SMITHSON.

APRIL 14, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SIMS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 9729.]

The Committee on Pensions, to whom was referred the bill (H. R. 9729) increasing the pension of William S. Smithson, have considered the same and respectfully report as follows:

The claimant was a private in Company D, Fifth Tennessee Volunteers, and served from November 7, 1847, to March 6, 1848, in the war with Mexico. He was allowed a pension of \$8 per month under the provisions of the act of January 29, 1887, and the same was subsequently increased under the act of January 5, 1893, upon proof of destitution and inability to earn a support by manual labor.

Affidavits accompanying the bill show that the claimant is totally blind, and has been for several years. He is about 73 years old and wholly without means aside from his pension. It is further shown that he is a man of good character and habits, and that his condition of helplessness is in nowise due to vicious habits.

There are many precedents for the granting of relief in cases of this character, and in view of the facts set forth above the passage of the bill is recommended, with an amendment changing the initial "S" in claimant's name to "L."

MARY A. FREEMAN.

APRIL 14, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOWE, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 5992.]

The Committee on Pensions, to whom was referred the bill (H. R. 5992) granting a pension to Mrs. Mary A. Freeman, have considered the same, and respectfully report as follows:

The claimant was the wife of Andrew V. Pritchard, who died while serving in the Mexican war, a private in the Second Pennsylvania Volunteers, and she was pensioned as his widow up to March 15, 1852, when she remarried to one John Freeman, who died December 28, 1871, leaving the claimant destitute of all means of support. The testimony further shows that the claimant is now 74 years old and dependent upon the charity of friends for a livelihood. It further appears that her grandfather was a soldier in the Revolutionary war and her father a soldier in the war of 1812.

There are several precedents for the proposed legislation, and in view of the facts, which are fully substantiated by the papers, the passage of the bill is respectfully recommended.

FRANCES P. TRUMBULL.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

R E P O R T.

[To accompany H. R. 1373.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1373) granting an increase of pension to Frances P. Trumbull, beg leave to submit the following report, and recommend that said bill do pass with amendments:

This bill as amended proposes to increase from \$8 to \$20 per month the pension of Frances P. Trumbull, of 6328 Ellis avenue, Chicago, Ill., the widow of Matthew M. Trumbull, who was enrolled June 8, 1861, and mustered in June 10, 1861, as captain of Company I, Third Iowa Infantry; mustered in as lieutenant-colonel August 10, 1862, and discharged November 20, 1862, on tender of resignation by reason of injury received at battle of Shiloh and affection of lungs. He was again enrolled and mustered in November 30, 1863, as colonel Ninth Regiment, and mustered out February 28, 1866.

A medical certificate, dated April 16, 1862, at Pittsburg, Tenn., shows Capt. M. M. Trumbull laboring under orchitis, arising from injuries received at the battle of Pittsburg, and also camp dysentery. Another certificate, dated March 25, 1864, shows his "suffering for the last ten days with bronchitis, and is not recovered."

Soldier died May 9, 1894, from disease of bladder and kidneys, which is alleged to have resulted from the injury which the record shows him to have received in service and which caused orchitis. There is considerable evidence tending to confirm this allegation and to show that he was struck in the region of the scrotum and bladder with a piece of shell or some similar substance, and that caused inflammation of the bladder and it involved the kidneys.

In September, 1896, the claim was referred to the medical referee for an opinion as to whether the disease of kidneys and bladder was the result of the injury, and the following reply was made:

The record of the War Department states that soldier received a wound at battle of Shiloh, but fails to state the nature of such wound or its location. The medical

record shows soldier suffering from orchitis due to injuries at battle of Pittsburg. This is all the record data we have on which to base an opinion whether or not disease of bladder and kidneys was due to injuries of service origin. From a medical standpoint, with such meager evidence as is now in the case, it is impossible to establish a pathological connection between "orchitis arising from injuries at battle of Pittsburg," and death cause, disease of kidneys and bladder, death having occurred over thirty years after incurrence of injuries.

The testimony of comrades shows that soldier received the injury, as alleged, in the region of the bladder. The testimony of physicians and neighbors shows that from very soon after discharge he was troubled with urinal and bladder trouble, and the preponderance of the medical evidence is to the effect that the injury and disability stood in the relation of cause and effect, and that therefore soldier's death was due to his service.

The claim was recommended for admission by an examiner, but the reviewer, not satisfied with the evidence furnished, had the claim sent to special examiner in February, 1897, where it has been since, until recently called in by telegram at the request of this committee. The Commissioner of Pensions was asked, in case the claim could be completed in a very short time, to have an immediate conclusion by making it special, and if not, to have the papers called in and sent to the committee; and as it is proposed to continue the special examination in five different States, which would involve sending it to five or six different special examiners, and its examination by three in the same State has consumed over a year, it seems that if relief is to be afforded before the woman dies it will have to be by special act.

The widow is now receiving a pension of \$8 per month under the act of June 27, 1890. She was married to the soldier June 24, 1866, and is about fifty-eight years of age, and is poor.

The only hitch in the case appears to be to find evidence satisfactory to the Pension Office to show the existence of the disability from which the soldier died from the time he received the injury in 1862 to 1867, from which time it seems to be well established. But soldier went home sick and wounded in 1862, recovered sufficiently so that he reentered the service in 1864, and remained until February 28, 1866.

All three of the special examiners who have had the case up to this time consider it one of merit.

As the soldier held the rank of captain when he received the injury and incurred the disability from which he died, the bill should carry \$20 per month.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 4, strike out "cause to be placed" and insert in lieu thereof the word "place."

In line 5, strike out the words "of the United States."

In line 6, strike out the word "wife" and insert in lieu thereof the word "widow."

In lines 7 and 8, strike out the words "in the war of the rebellion at one hundred" and insert in lieu thereof the following: "and pay her a pension at the rate of twenty."

Amend the title so as to read: "A bill granting an increase of pension to Frances P. Trumbull."

WILLIAM MANLEY.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HENRY, of Connecticut, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 1858.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1858) granting an increase of pension to William Manley, beg leave to submit the following report, and recommend that said bill do pass, with amendments.

This bill, as amended, proposes to increase from \$24 to \$50 per month the pension of William Manley, of Port Huron, Mich., who served from April 6, 1864, to June 5, 1865, and was honorably discharged on account of disability from left inguinal hernia.

The records show him to have been treated various times in hospital for hernia.

He filed and established a claim under the general law for hernia and was pensioned therefor at \$4 from discharge, increased to \$8 from November 16, 1880, and to \$12 from January 9, 1884.

July 3, 1885, he filed a claim for injury of right knee.

Same was established and admitted and his pension was increased to \$17 from July 3, 1885, for left inguinal hernia and injury of right knee.

The rate was increased to \$24 from January 25, 1894, on examination. Paralysis of right leg and hip, nervousness, and insomnia, as results, referred to medical referee, but not so accepted by medical referee.

A. B. Chapin, M. D., treasurer of board, who was ordered to make a special medical examination of claimant, under date of March 2, 1896, said:

There is partial paralysis of motion and complete loss of sensation * * * in the right limb. In my opinion as a physician it is a pathological condition.

The board at Port Huron, Mich., on October 13, 1897, after making a very thorough and exhaustive examination, said:

In our opinion the claimant is so totally disabled and permanently helpless from double inguinal hernia and injury to right knee and resulting paralysis of right leg

and thigh that he requires the regular and personal aid and attendance of another person, and is entitled to \$72 per month.

It can not be questioned that this soldier is suffering from disabilities of service origin to such an extent that he requires the frequent and periodical attendance of another person, and he is entitled to a pension of \$50 per month on account thereof.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Infantry," insert the words "and pay him a pension."

In line 7 strike out the word "seventy-two" and insert in lieu thereof the word "fifty."

In lines 8 and 9 strike out the words "from the date of the approval of this act."

Amend the title so as to read: "A bill granting an increase of pension to William Manley."



MARGARET THOMAS.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4251.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4251) entitled "A bill granting a pension to Margaret Thomas," beg leave to submit the following report, and recommend that said bill do pass, with amendments:

This bill, as amended, proposes to pension Margaret Thomas, of Flat, Ohio, as widow of John Thomas, at \$8 per month, with the usual allowance for minor children. Soldier served as a private in Company I, Thirty-sixth Ohio Volunteers, from August 13, 1861, until January 19, 1865, when honorably mustered out. He also served as John S. Thomas in Company D, Fifth United States Veteran Volunteers, from March 27, 1865, to March 31, 1866. He received a gunshot wound in right thigh at the battle of Chickamauga, Ga., September 19 and 20, 1863, and was treated for same and scurvy.

He filed and established a claim for gunshot wound left leg, chronic diarrhea and resulting dyspepsia and disease of rectum, and disease of mouth, result of scurvy, and was pensioned at \$14 per month at the time of his death, July 17, 1895. This claimant filed a claim August 12, 1895, under the general law, as his widow, but the claim was rejected March 9, 1897, "on the ground that soldier's death resulted from disease of heart, not accepted as due to pensioned disabilities, nor otherwise shown to be due to his service; moreover, claimant is unable to prove her title as legal widow of soldier by proving divorce of a former living wife."

The soldier was married prior to his marriage to claimant. The exact date of the prior marriage is not shown, but it is shown that he and his former wife separated in 1874; that he at that time gave her money to procure a divorce, and it appears that he gave her a written statement that he would not interfere or interpose any objection to such divorce.

It also appears that she was married in 1875 to George W. Mullinix,

of Mattoon, Ill, representing herself to be the widow of J. S. Thomas. In 1877 the soldier was married to claimant, to whom he represented that his former wife had secured a divorce from him.

The following is copy of an affidavit of the brother of the soldier:

J. S. Thomas and Addie Stone were married about the 1st of January, 1868; they lived together until some time in 1870, when Addie Thomas, now Mrs. Mullinix, came to my house in Ohio. About November, 1874, J. S. Thomas also came to my house. They both resided in the neighborhood until some time in January, 1875; they did not live as man and wife, nor did they cohabit, but they had long talks together. When Mrs. Thomas, now Mrs. Mullinix, went away, J. S. Thomas wrote something and handed it to her, and told her that would be a waiver on his part. He also gave her a sum of money and said it would be sufficient to take her to Missouri and get the divorce.

In 1877 J. S. Thomas told me that he was going to be married to Maggie Evans, of Kentucky. I asked him if he had informed her of his previous marriage. He said he had. Then I asked him if he had a copy of the divorce. He said he had. Since his death we have not been able to find the divorce, but I feel satisfied there was a divorce.

DAVID L. THOMAS.

It thus appears that the claimant in all innocence married the soldier, believing him to be legally divorced. She lived with him as his wife until he died, bore him four children, three of whom are now under 16 years of age. When she filed her claim in the Pension Office she was called upon for proof of the death or divorce of the former wife, who now says she never procured any divorce. Whether she was divorced from the soldier or not, she can have no possible title to pension, since she has been living with another man as his wife for over twenty-two years, and ever since the death of the soldier. If she is not the wife of the man with whom she is living, then she is living in adulterous cohabitation with him.

The claimant married the soldier innocently, lived with him eighteen years as a faithful wife, and is the mother of his children. These are the facts as shown by the evidence. It also appears that the claimant is 43 years of age and has no income, property, or means of support, and it is stated that she is trying to support her children at the washtub.

Your committee recognize this claimant as the widow of the soldier, and report the bill back with the recommendation that it pass when amended as follows:

In line 8 strike out "twelve," and insert "eight" in lieu thereof.

In line 9 strike out "with the usual allowance for minor children," and insert in lieu thereof the words "and also two dollars per month in addition on account of each of her minor children during their minority."

CLARA A. SHORT.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 1271.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1271) entitled "A bill granting a pension to Clara A. Short," beg leave to submit the following report and recommend that said bill do pass with amendments.

This bill as amended proposes to pension at \$20 per month Clara A. Short, of Brandon, Wis., the widow of Martin C. Short, who enlisted November 10, 1862, as first sergeant Company I, Thirty-first Wisconsin Volunteers. He was mustered in as first lieutenant, same company, April 27, 1864, and as captain May 27, 1865. He was mustered out with company July 8, 1865.

He filed and established a claim for pension under the general law, and was pensioned thereunder for chronic diarrhea and resulting dyspepsia and general debility at \$9 per month, being rated one half total of rank as first lieutenant, the rank which he held at the time when he incurred those disabilities.

He died February 17, 1894, and this claimant, his widow, filed a declaration under the general law March 26, 1894, alleging that soldier died from disabilities for which pensioned, complicated with diabetes.

Dr. J. D. Root testifies that he treated claimant professionally in his last sickness; that he died February 17, 1894, of diabetes, which was no doubt caused and his death hastened from his general debility and by his chronic stomach and bowel trouble, of which he had been a sufferer for years.

The claim was rejected by the medical referee December 31, 1896, on the ground that death resulted from diabetes, not shown to be due to chronic diarrhea and resulting dyspepsia and general debility, for which the soldier was pensioned. Before rejection the claim was sent out for special examination to obtain the testimony of the physicians who had treated him and knew most of his physical condition prior to and at

the time of his death. The first special examiner who had the case in his report says:

I secured the testimony only of those whom I knew to be most competent to state soldier's physical condition, symptoms, etc. Dr. Root, under whose care soldier was, * * * bears a good reputation for truth. * * * It is the opinion of both Dr. Root and Dr. Turner that diarrhea was an indirect or remote cause of death. * * * I recommend admission.

The testimony of the physicians who attended claimant and knew him personally and his physical condition is positively to the effect that they believe his death was due to the disabilities for which he was pensioned, and that of the specialist on urinary diseases, who analyzed a specimen of his urine, is not adverse to the claim. The only adverse opinion found in the case is that of the medical referee of the Pension Office in the rejection of the claim.

In a decision dated August 21, 1897, Assistant Secretary Webster Davis quoted from a former decision the following:

Where the evidence, lay and medical, goes to show that the cause for which pension was granted to a soldier was complicated with a disease which was the immediate cause of his death, the Department will sustain the widow's claim for pension on account of the soldier's death from said complication of causes, holding the same, for pensionable purposes, to be due to the line of duty in the service.

He then says:

This decision, in my opinion, fully meets the issue presented by the medical referee, and lays down a proper rule for the guidance of your Bureau in the adjudication of kindred cases.

Following the rule here laid down, the case should have been admitted in the Pension Office, as, if the immediate cause of death was not directly due to the pensioned disabilities, it was so complicated with them that they were necessarily important factors in producing death.

There is a claim pending in the Pension Office under the act of June 27, 1890, and, should it be admitted, as it probably will not be, it would not do justice to this claimant.

Claimant is 53 years of age; was married to the soldier June 25, 1876; has one child under 16 years of age, and is poor.

The case is meritorious in every respect, and is reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "pension," insert the words "at the rate."

In same line strike out the word "twenty-five" and insert the word "twenty," so that it will read "twenty dollars per month."

MARCH 30, 1898.

GENTLEMEN: House bill 1271, to grant a pension to Clara A. Short, is, in my judgment, a most meritorious one. Following is a brief statement of facts with reference to the services rendered by her husband and the condition of the family of Mrs. Short:

In April, 1861, M. C. Short enlisted while attending college at Beloit, Wis. This company was soon disbanded, and on November 10, 1862, he enlisted in Company I, Thirty-first Wisconsin Infantry, at Dartford, Green Lake County, Wis. He was made sergeant of the company upon its organization, and on April 16, 1864, while on duty of the Nashville and Chattanooga Railroad, he was commissioned first lieutenant. On April 20, 1865, he received a commission as captain of Company I, and was mustered out as such in July, 1865, at Louisville, Ky. During the entire time from the date of his commission until he was mustered out of the service, except for a period of twenty days, he was in command of his company, and kept the books and all accounts, and made nearly every muster roll of the organization while he was engaged in the services.

He was in command of his company at Chesterfield, Thompsons Creek, Averbysboro, and at Bentonville. He died February 17, 1894, leaving a wife and three children, each of whom was under 16 years of age. Mr. Short drew a pension of \$8 per

month for about seven years prior to his death. The immediate cause of his death, as certified by the physician, was diabetic coma. He was pensioned for chronic diarrhea, stomach trouble, and general debility, brought on by exposure during the services.

Of his children, the oldest boy has had serious trouble with his eyes, and has lost the use of one. One child, a daughter, has heart difficulty, and is unable to be of any material assistance to her mother. The only property left by Mr. Short was a small homestead and a printing outfit for the publication of a small weekly newspaper in a country town. There was some life insurance, but it has been used up in support of family. The widow applied for a pension under the Cleveland Administration, but her claim was rejected. She has conducted the printing office; but, not being a practical printer herself, has been obliged to employ assistance, and the income has not been sufficient to afford her a reasonable support for herself and children.

The printing office was destroyed by fire and it became necessary for her to build a small office in order to continue the publication of her paper. This building is now heavily mortgaged, and the widow, in addition to the general management of the newspaper business, is taking boarders and doing everything she possibly can for the support of herself and family. I am advised that unless some assistance is rendered to her she can not possibly retain the newspaper outfit, and without it she would be largely dependent upon charity for the support of herself and family. The records will disclose that her husband, Captain Short, rendered meritorious service to his country and returned home broken in health, and therefore unable to successfully fight the battle of life. I trust your committee will report this bill favorably. The facts which I have stated can be substantiated if further evidence is desired by your committee.

I am, with great respect, yours, very respectfully,

J. H. DAVIDSON.

The CHAIRMAN AND MEMBERS COMMITTEE ON INVALID PENSIONS,
House of Representatives, City.

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VIRGINIA C. FLEANOR.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4916.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4916) entitled "A bill granting a pension to Virginia C. Fleanor, beg leave to submit the following report, and recommend that said bill do pass, with amendments.

This bill, as amended, proposes to pension at \$30 per month Virginia C. Fleanor, of Nora Springs, Iowa, widow of Col. Henry Daugherty. In effect it restores her to the pension roll.

No case more deserving has come before this Congress, and your committee are pleased to be able to report the case of this deserving woman for favorable action.

Henry Daugherty served all through the war with Mexico and was honorably discharged. He enlisted in the Union Army June 25, 1861, and served until May 7, 1863, when he was honorably mustered out on account of wounds received in battle—a gunshot wound through the lung—and from the direct effects of which he died April 7, 1868. He was colonel of the Twenty-second Illinois Infantry Volunteers at the time he received his death wounds. He was also shot through the left leg and amputation was necessary.

This claimant, his brave and faithful wife, was detailed and served as a regular nurse from August, 1861, to June, 1863. She was borne on the rolls as such, and did her duty fearlessly, faithfully, and satisfactorily. She was a heroine of the noblest type. While her husband, holding the rank of colonel, was leading his regiment and braving death on the battlefield, his noble wife was in the field and regimental hospitals, comforting the sick and wounded, making their dying beds "soft as downy pillows are."

After the death of her husband she was pensioned at \$30 per month until April 5, 1887, when she married Nicholas Fleanor, who died February 14, 1896, leaving this claimant, now 60 years of age, in necessitous circumstances, feeble, and without anyone on whom she can rely for support.

Her application for pension as a nurse has been properly denied, as she was not, within the letter of the law, employed by recognized authority; she served without pay. Her presence, her example, her cheering influence, and her work as a nurse were worth a regiment of men.

Her pension ceased with her remarriage and should now be restored.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In lines 5 and 6, strike out the words "of Nora Springs, Floyd County, Iowa, remarried."

In line 8, after the word "Infantry," insert the words, "and pay her a pension."

In line 9, strike out the word "twelve," and insert in lieu thereof the word "thirty."

In lines 4 and 5, strike out the words "of the United States."

STATE OF IOWA, *Floyd County*, ss:

In the matter of the claim of Mrs. V. C. Fleenor for a pension as the widow of Col. Henry Daugherty, who served in the First United States Dragoons in the Mexican war, now comes Mrs. V. C. Fleenor, and, after being duly sworn, says:

My husband, Henry Daugherty, died April 7, 1868, and we had three children during our married life, but all of them died in infancy. I do further state that I was never divorced from him, and lived with him as his wife up to the time of his death; and I was married to Nicholas Fleenor on April 6, 1890, but I had no children by this marriage, and my second husband died February 14, 1896; and I do further state that my last husband left me no property whatever, and I have no means of support except the labor of my hands. With reference to my service as nurse, all the proofs are on file in the Pension Office, and I would refer the Pension Committee to those files. Claim No. 1123771.

V. C. FLEENOR.

Subscribed and sworn to before me this 26th day of February, 1898, and I certify that I made the affiant, Mrs. V. C. Fleenor, fully acquainted with the contents of this affidavit before she executed the same, and that she is a reputable person and entitled to full credit and belief.

Witness my hand and notarial seal this 26th day of February, 1898.

[SEAL.]

H. B. SHAW, *Notary Public*.

STATE OF IOWA, *Floyd County*, ss:

O. P. Waterbury, J. L. Rowell, and S. M. Mitchell, after being duly sworn, does each for himself state as follows: We have known Mrs. V. C. Fleenor for quite a number of years, and previous to her last marriage we knew her as Mrs. V. C. Daugherty, and know that she was a pensioner at that time as the widow of Col. Henry Daugherty, late of the Twenty-second Illinois Infantry, and we do further state that we were present at the marriage of this lady to Nicholas Fleenor, which occurred on the 6th of April, 1890, and the said Nicholas Fleenor died on the 14th of February, 1896, and that there were no children of this union; and we do further state that the said Nicholas Fleenor left the said widow no property, and that she has no means of support, except the labor of her hands.

And we do further state that our post-office addresses are all at Nora Springs, Iowa, and that we have no interest in her claim.

O. P. WATERBURY.

J. L. ROWELL.

S. M. MITCHELL.

Subscribed and sworn to before me this 8th day of March, 1898; and I certify that I made these affiants fully acquainted with the contents of this affidavit before they executed the same, and that they are well known to me to be reputable gentlemen and entitled to full credit and belief, and that I have no interest in this claim.

Witness my hand and notarial seal this 8th day of March, 1898.

[SEAL.]

H. B. SHAW, *Notary Public*.

STATE OF IOWA, *Floyd County*, ss:

V. C. Fleenor, after being duly sworn, says: I am the identical person who had a claim for pension No. 1123771 before the Pension Bureau, and in prosecuting that claim I furnished the evidence of Dr. Gordon, assistant surgeon of the Twenty-second Illinois Infantry; also, I furnished the evidence of Messrs. Shafer & Caldwell, of Sparta, Ill., and refer to that evidence on file there, and would further state that a large part of the record of my service was lost when I went to Columbus, Ky., to care for my husband, Colonel Daugherty, who was wounded and a prisoner; and the records of my having been a nurse for two months previous to that are also on file in the Pension Bureau, to which I refer the Pension Committee.

V. C. FLEENOR.

Subscribed and sworn to before me this 7th day of March, 1898, by the said V. C. Fleenor; and I certify that I made her fully acquainted with the contents of this affidavit before she executed the same, and that she is a reputable person and entitled to full credit and belief, and that I have no interest in this claim.

[SEAL.]

H. B. SHAW, *Notary Public*.

STATE OF IOWA, *Floyd County*, ss:

In the matter of Mrs. V. C. Fleenor's claim, now comes Mary A. Bowen, aged 78 years, and Carrie J. Sutton, aged 53 years, who, after being sworn, each for herself, says:

We have known Mrs. V. C. Fleenor for many years, and have known her quite intimately since the death of her last husband, Nicholas Fleenor, which occurred February 14, 1896, and know that she has not remarried since then, and we are so intimately acquainted with her that if she had remarried we should have known it.

We do further state that our present post-office addresses are at Nora Springs, Iowa, and that we have no interest in this claim.

MARY A. BOWEN,
CARRIE J. SUTTON.

Subscribed and sworn to before me this 19th day of March, 1898; and I certify that I made the above affiants fully acquainted with the contents of this affidavit before they executed the same, and that they are reputable persons and entitled to full faith and belief, and that I have no interest in this claim.

[SEAL.]

H. B. SHAW, *Notary Public*.

NORA SPRINGS, *March 7, 1898*.

DEAR SIR: I have the letter Mr. Waterbury received from you yesterday, saying the evidence was not sufficient. It is very hard at this late day to obtain the necessary evidence, but will try to give you a history of my services during the war. It is utterly impossible to give exact dates, as I have no written record of them. I went to Birds Point some time in August, 1861, and was there assigned to the Twenty-second Regimental Hospital by Dr. George Cotesworth, surgeon of the Twenty-second, and Mrs. Yates, one of the matrons.

I served in the hospital there until some time in October; then my husband, Colonel Dougherty, was ordered with his regiment down the Mississippi to a town called Norfolk, afterwards named Camp Dougherty. I went with the regiment, and the other nurse remained at the hospital. We stayed there a week, when our camp was attacked by Pillow's forces. Then General Grant ordered the troops to fall back to Birds Point. I remained in the hospital till the battle of Belmont, 7th of November, 1861. My husband was taken prisoner in this battle and taken to Columbus, Ky. I went on the 11th to nurse my husband on a boat under flag of truce sent by General Grant under command of Major Rollins.

We were there a month, when the Colonel was exchanged and brought back to Birds Point. My husband was severely wounded in the battle of Belmont—lost his left limb, was shot through the right lung and the right arm; and it has just occurred to me after all these years that here was where my record as a nurse was lost by an oversight of the ones in authority, as I kept right on nursing him and others until the battle of Pittsburg Landing, then I was ordered to report there by Governor Yates, of Illinois; was ordered aboard the hospital boat *Belle Memphis*; remained there thirty-six hours; then the boat ran down to Cairo and Mound City; left part of the wounded at Cairo, the rest taken to Mound City.

I remained at Mound City several weeks; then was ordered back to the general hospital at Cairo; remained there until June. My husband then procured a leave of absence to go home to recruit his health. We remained at home six weeks or two months; he was then ordered to report at Cairo. The 1st of November he was ordered to take command of the post at Paducah, Ky. I was shortly assigned to

work in one of the general hospitals there. I was there all winter. In the spring of 1862 my husband was relieved of his command at Paducah, being unable to keep it on account of his wounds, and was sent to Cairo. I was there assigned to work in the hospital where I began my career as nurse.

I served alternately at Cairo and Mound City, wherever the need was greatest, until June, 1863, when my husband resigned on account of his health, and we returned to our home in Illinois. We remained in Carlyle, Ill., until his death, the 7th of April, 1868. This is a true record of my services as nurse during the war. My late husband left me no property, so I have no means of a livelihood save by my work. I appreciate what you are doing for one that needs your help. Will add a short affidavit to the one sent before.

Hoping you may be successful, and that I may hear from you soon, I remain, your grateful friend,

VIRGINIA C. FLEANOR.

Hon. THOMAS UPDEGRAFF.

Subscribed and sworn to before me this 15th day of March, 1898, and I certify that the above is in the affiant's own handwriting and signed by herself, and that she is a reputable person and entitled to full credit and belief, and that I have no interest in this claim.

[SEAL.]

H. B. SHAW, *Notary Public.*

RECORD AND PENSION OFFICE,
War Department, February 23, 1898.

Respectfully transmitted to the Adjutant-General, United States Army.

The chairman of the Committee on Pensions, House of Representatives, has this day been furnished with a statement of the military record of Col. Henry Dougherty, Twenty-second Illinois Infantry Volunteers, and has also been informed of this action.

By authority of the Secretary of War:

F. C. AINSWORTH,
Colonel, United States Army, Chief of Office.

[Second indorsement.]

ADJUTANT-GENERAL'S OFFICE,
February 25, 1898.

Respectfully returned to the chairman of the Committee on Pensions, House of Representatives.

The records of this office show that Henry Daugherty, private, Troop G, First Dragoons, was enlisted August 31, 1844, at Jefferson Barracks, Mo., and discharged August 31, 1849, by expiration of service, at Albuquerque, N. Mex.

His name is borne on the rolls as Henry Dougherty.

THOMAS WARD,
Assistant Adjutant-General.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington, February 23, 1898.

SIR: Referring to your communication of the 21st instant, received this morning, in which you request a statement of the military record of Henry Dougherty, formerly of Captain Bergain's company, First United States Dragoons (Mexican war), and also formerly colonel Twenty-second Illinois Infantry Volunteers (war of the rebellion), I have the honor to inform you that it is shown by the records that Henry Dougherty was mustered into service June 11, 1861, as colonel of the Twenty-second Illinois Infantry Volunteers, to serve three years. He was wounded severely November 7, 1861, at the battle of Belmont, Mo., and appears to have served faithfully until May 7, 1863, when he was honorably discharged from the service on account of wounds, in orders from this Department of that date.

Your communication has this day been transmitted to the Adjutant-General, United States Army, who is the custodian of the records of the regular military establishment, of which the First United States Dragoons was a part, who will doubtless furnish you with the record of Colonel Dougherty as a member of that organization.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

The CHAIRMAN COMMITTEE ON PENSIONS,
House of Representatives.

MERLIN C. HARRIS.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2357.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 2357) granting an increase of pension to Merlin C. Harris, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$14.50 to \$30 per month the pension of Merlin C. Harris, of Tonganoxie, Kans.

The bill is reported back with the recommendation that it pass.

The Senate report states the facts, and is as follows:

[Senate Report No. 645, Fifty-fifth Congress, second session.]

The Committee on Pensions, to whom was referred the bill (S. 2357) granting an increase of pension to Merlin C. Harris, of Tonganoxie, Kans., have considered the same, and report as follows:

Merlin C. Harris was enlisted on the 12th day of October, 1861, as first lieutenant of Company F, Ninety-sixth Regiment New York Infantry Volunteers, and on August 1, 1864, was commissioned as captain of the same organization. He was honorably discharged on the 7th day of February, 1866. He applied for and was allowed a pension at the rate of \$4 per month from February 7, 1866, for chronic diarrhea and resulting indigestion and nervous prostration. This was reopened by a special act to correct rank and rate, and he was allowed \$8.50 per month from February 26, 1885, on the same disability. His pension was subsequently increased to \$10.50 per month from September 20, 1890, because of increased disabilities, and again increased to \$14.50 per month from November 16, 1896, because of further increased disabilities, which included deafness of both ears.

On or about the 1st of July, 1862, claimant was taken prisoner near Long Bridge, Virginia, and was confined in Libby prison until July 14, same year, when he was removed to Belle Isle and on the 13th of September, 1862, he was paroled. On the 27th day of October, 1864, while in command of his company, he was again taken prisoner while engaged in assaulting the outer line of works around Richmond. He was confined again in Libby prison until November 15, when he was removed to Danville, Va., where he was confined in an old tobacco warehouse without windows. On the 5th day of February, 1865, he escaped by crawling into an oven, where, after remaining several hours in a cramped and exceedingly painful position, he got out and started for the Union lines, in company with First Lieut. John B. Helmes, of the One hundred and first Pennsylvania Infantry, and First Lieut. Charles Davis, of the

Twenty-fourth Iowa Infantry. These men traveled only by night, and, with few exceptions, lay hidden every day in the swamps. Merlin C. Harris was dressed in summer clothes without buttons and used large pins to keep his clothes together. He was twenty-seven days in getting back to the Union lines, and all that time did not dare to speak to a white man. He encountered all sorts of perils, and on one occasion he and his comrades were pursued by bloodhounds and mounted men, from whom he and his companions escaped by wading a deep stream. His body and extremities were so cold and frozen that it was impossible for him at that time to refasten his clothes which he had removed to wring out; and when he drew the pins from his vest and coat he put them in his mouth and kept them there until he reached a fire to get warm. This happened on various occasions until the pins disappeared, he knows not how or when, and his trip was ended with his clothes tied with hickory bark.

"About twelve or thirteen years ago," claimant says, "I began to have trouble in my lower part of abdomen, and in a year or two a small 'kernel' or 'lump' began to grow in my right groin. It grew rapidly, causing a great deal of interference with my health as it lay over the artery. It caused violent heart trouble, and breaking down of my nervous system with constant pain and sleeplessness." On April 28, 1890, at All Saints Hospital, Kansas City, Mo., it was removed by Dr. George W. Halley. The abdominal cavity was opened for nearly 7 inches and the tumor was 5 inches by 3½ inches.

The result of this operation has rendered the claimant totally unfit for the performance of manual labor, and the union from the operation having been very faulty, resulted in a ventral hernia in the right inguinal region. The hernial sac measures 6 inches in length and an inch in breadth, and the rupture can not be controlled by a truss. On the left side there is a well-developed inguinal hernia complete, the ring readily admitting two fingers. When protruded this hernia measures three-fourths of an inch in length and about 1 inch in breadth, and can not be controlled by a truss because of its being so low the pad must necessarily press heavily upon the spermatic cord, thereby causing the patient excruciating pain and thus aggravating nervous prostration.

The bill under consideration asks for increase on the ground that the disability which has resulted in unfitting him for manual labor, and making it necessary for him to periodically have the aid and attendance of another person, originated in the service. The pin is submitted in evidence, and it is an old-fashioned brass pin, such as was in use years ago.

The claimant applied to the Commissioner of Pensions for a pension because of these disabilities, but was rejected on the ground that there was no evidence on file to show that the pin which produced the difficulty was swallowed during the military service of the soldier.

Your committee herewith submit the affidavit of Dr. George Halley, who was the surgeon performing the operation when the pin was removed. This affidavit is marked Exhibit A, and is made a part of this report.

Also the affidavit of Dr. W. R. Gladman, marked Exhibit B; the affidavit of Dr. W. R. Van Tuyl, marked Exhibit C, and the affidavit of Dr. J. Warring, marked Exhibit D.

Your committee submit and make a part of this report the affidavits of John B. Helm and Charles Davis, the two officers who joined Lieutenant Harris when he made his escape from the tobacco warehouse at Danville, Va. These affidavits are marked Exhibits E and F, respec

tively, and they verify the statements Lieutenant Harris has made with reference to the pins and the condition of his clothing.

Lieutenant Harris believes that the pin which produced his disability, for which he asks relief, was swallowed while he was making his escape from the Confederate prison to the Union lines, and has no recollection of having placed pins in his mouth at any other time. It is a question whether he did or did not swallow the pin at the time specified. It is true, however, that the pin is an old-fashioned brass pin with a head somewhat round, such as was in use during those days. The evidence of the surgeon who operated on Lieutenant Harris brings out the fact that the pin was taken from him. Of course there are some doubts in the case, but after carefully considering the evidence on file the committee is of the opinion that the case is a meritorious one.

Merlin C. Harris was a brave officer, and because of meritorious conduct and bravery exhibited at various times he worked his way up until he was brevetted a major. Nearly all the affidavits and communications on file in behalf of this man are from his superior officers, and they speak in a complimentary manner, and refer to the bravery exhibited by him at various times. There is no doubt of this man's disability and that he is at present incapacitated to the extent that he needs the "periodical aid and attendance of another person."

The committee therefore recommend the passage of the bill, amended by striking out "fifty" in line 8 and inserting "thirty."

EXHIBIT A.

STATE OF MISSOURI, *County of Jackson*, ss:

Dr. George Halley, whose post-office address is Kansas City, county of Jackson, State of Missouri, and whose age is now 50 years, being first duly sworn, says that he is a regular practicing physician of twenty-one years' standing, and that he gave medical advice and treatment to Merlin C. Harris, Company C of the Ninety-sixth Regiment of New York Volunteers.

I know Merlin C. Harris, of Ellinwood, Kans. On the 28th day of April, 1890, at All Saints Hospital, in Kansas City, Mo., I removed a tumor from his right groin (right illiac region), 5 inches from above downward and $3\frac{1}{2}$ inches transversely. The tumor was, on dissection, found to extend through the wall of the abdomen and to have been caused by a large pin burrowing its way through from the cæcum, which was adherent to the abdominal wall. The pin was only found when about half of the tumor had been cut away. In healing it shortened the muscles on the right side, and now draws him to that side. I think his ability to perform manual labor has been diminished one-half. The operation was not necessitated from any vicious habits of his.

I further swear that I am not interested in this claim for pension.

GEO. HALLEY, M. D.

Subscribed and sworn to before me this 19th day of August, 1890. The affiant is the person he represents himself to be, and a credible witness, and is a regular practicing physician and surgeon, reputable in his profession. I am not interested in this claim.

Witness my hand and seal the day and year above written.

[SEAL.]

S. T. PLATT, *Notary Public*.

EXHIBIT B.

STATE OF KANSAS, *County of Leavenworth*, ss:

Personally appeared before me, a notary public in and for said county and State, W. R. Gladman, aged 49 years, and whose post-office address is Tonganoxie, county of Leavenworth, State of Kansas, well known to me to be a reputable physician and entitled to credit, who, being duly sworn, declares as follows: That he has for fifteen years last past been acquainted with Merlin C. Harris, late of Company I, Ninth

Regiment New York Volunteer Infantry; have at various times examined said Merlin C. Harris as to his physical condition, and have been summoned to treat him for cramps of the lower limbs, caused by attempts to perform manual labor; have also treated him for bowel trouble and nervous prostration. Some ten years ago he consulted me relative to a tumor that had for several years been slowly making its appearance in right groin; advised him to consult some prominent surgeon, which he did, with the result that on April 28, 1890, Dr. George Halley, of Kansas City, Mo., removed the tumor, in which was found embedded a pin, that from its corroded appearance had evidently been traveling around through his body for several years. The union from this operation is very faulty, resulting in a ventral hernia in right inguinal region. The hernial sack measures 6 inches in length and an inch in breadth. This rupture can not be controlled by a truss. On the left side there is a well-developed inguinal hernia complete, the ring readily admitting two fingers. When protruded this hernia measures one and three-quarter inches in length, one inch in breadth, and can not be returned by a truss, because of it being so low the pad must of necessity press heavily upon the spermatic cord, thereby causing him excruciating pain, thus aggravating his nervous prostration. The pad on right side would press heavily upon the scar resulting from the operation, causing an inflammation that would very soon produce suppuration, were it possible to fit a pad to it. I consider him wholly unable to perform any manual labor. Such attempts endanger his life. This in my own handwriting and without dictation from anyone. My knowledge of the case comes from almost daily contact with the said Merlin C. Harris, and having this day made a thorough and careful examination of his physical condition. I have no pecuniary interest in any pension he may receive.

W. R. GLADMAN, M. D.

Sworn and subscribed to before me this 22d day of May, 1897.

[SEAL.]

JAMES H. BROWN, *Notary Public*.

(My commission expires August 20, 1898.)

EXHIBIT C.

PHYSICIAN'S AFFIDAVIT.

STATE OF KANSAS, *County of Leavenworth, ss:*

Personally came before me, a notary public in and for the aforesaid county and State, W. R. Van Tuyl, a citizen of Leavenworth, whose post-office address is Leavenworth, Kans., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about twelve years, and that "I have this day personally examined him and find the following disabilities: He has a scar $5\frac{1}{2}$ inches long and from one-half to one and one-half inches wide over the ileocecal region, said to have been caused by an operation for appendicitis. The muscles have failed to unite, leaving a hernia the length of the scar, except for a few bands of cicatricial tissue. This protrudes from one-half to three-fourths inch upon coughing or any strain of the abdominal muscles. There are two very tender points in the course of the scar, on account of which he can not wear a truss or pad more than a short time.

"He also has a left direct inguinal hernia; opening admits one finger. The tumor passes the external ring and is $1\frac{1}{2}$ inches in diameter.

"On account of this condition it is impossible for him to perform such labor as would be required for a man of his occupation—that of a farmer.

"In my opinion he is incapacitated from earning a support by manual labor. There is no evidence whatever of any vicious habits.

"The above affidavit is in my own handwriting and is prepared from my own observation during the examination this day."

He further declares that he has been a practitioner of medicine for eight and one-fourth years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

W. R. VAN TUYL,

Secretary Second Pension Examining Board.

Sworn to and subscribed before me this 22d day of May, A. D. 1897, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the above declaration, etc., were fully made known to him before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

ANNA HEMMY, *Notary Public*.

(Commission expires January 22, 1900.)

EXHIBIT D.

STATE OF KANSAS, *Leavenworth County, ss:*LINWOOD, KANS., *May 1, 1897.*

To whom it may concern:

This is to certify that I have been acquainted with Merlin C. Harris since 1870; that since that time I have frequently been called to see him professionally. I have treated him for chronic diarrhea and nervous prostration. During the year of 1890 Dr. G. Halley, of Kansas City, Mo., removed a tumor from the right groin. I have occasionally examined his condition since the removal of the tumor, and have made a close examination of the same to-day and find his condition such that, in my opinion, he would endanger his life by performing manual labor. He has been partially deaf since I first knew him.

I have been a practicing physician for twenty-seven years.

I have no personal interest in his claim for pension.

J. W. WARRING, M. D.

Subscribed and sworn to before me this 1st day of May, 1897.

[SEAL.]

F. M. ADAMS, *Notary Public.*

(My commission expires July 8, 1897.)

EXHIBIT E.

BEDFORD, PA., *May 15, 1897.*

To all to whom this may come:

I, John B. Helm, am years of age, and have been for the most part of my life a citizen of Bedford County, Pa. I was late a first lieutenant of the One hundred and first Pennsylvania Volunteers Company G. I was taken prisoner at Plymouth, N. C., on the 20th of April, 1864, after four days and three nights fighting, and taken to Southern prisons. I escaped from Columbia Prison, South Carolina, and was recaptured by Cherokee Indians on the Smoky Mountains of Tennessee and sent to Danville Prison, Virginia. On the evening of the 5th of February, 1865, I escaped from the guard by dodging into an oven from the water guard. In the oven I found Lieut. Merlin C. Harris, of the Ninety-sixth New York Infantry, who had escaped from the guard the same day in the morning. At night we were joined by Lieutenant Davis, of Twenty-fourth Iowa Infantry, who had escaped into a woodshed, and we at once started for Union lines, at Plymouth, N. C., together. Lieutenant Harris was clad in a thin summer blouse and trousers, badly worn, and was sick and weak from diarrhea and starvation. He had no buttons on his coat and vest and no overcoat, and his vest was pinned and his blouse tied together with strings. We traveled only by night, and I think for twenty-seven days did not communicate with any white person. We waded streams every night, and some nights several times, as we were traveling parallel to the Roanoke River. Often thin ice covered these streams and they were from a few inches to waist deep. We lay by during the day, mostly in swamps, sleeping on the ground in our wet clothes and with no fire for fear of the smoke giving us away, and lived on corn meal and corn pone just as we could get it from the colored people. Lieutenant Harris had his feet frozen while lying in an old hogpen during a snow and sleet storm the second night and day out of Danville, Va. He took a severe cold in his head, and complained of earache and a gathering in his ear that formed a discharge and smelled badly. In crossing a large stream one night on a log or stringer left of a bridge he became dizzy and dropped to his knees to keep from falling. He lost control of himself and soiled his clothing, and as he was too cold to use his hands we stripped him and washed him and his clothes in the cold water, and Lieutenant Davis and myself dressed him and supported him along by running until we got warm. If his clothes would come loose on him he never could fix them until late in the night we would build a fire to take the chill off we would be too cold. We had to go round or flank all plantation houses, crossroads, and bridges on account of the guards and patrols on the roads with their dogs. We waded streams to keep the scent of the dogs off us. At a point near Hamilton, N. C., we heard of a rebel ram that was being built at Rainbow Bluffs, on the Roanoke River, on the stocks where the rebel ram *Albemarle* had been built. Greatly to our peril, we waited there two days and communicated with a colored mechanic who worked on the ram to get all the information we could, as to what stage of completion she was in, so we could inform our naval officers at Plymouth, N. C., and when we reached them, after one month and one day's travel, we were received into the Union lines at night, March 6, 1865, on board gunboat *Lockwood*, at Plymouth, N. C. Lieutenant Harris had studied up the route before he started. I found Lieutenant Harris a gentleman, and I believe a brave, good man. The Government can not pay him too much for what he suffered. I have never met

him since we parted at Plymouth, N. C., and have no pecuniary interest in his claim for pension.

Written with my own hand. I declare all the statements herein made to be correct and true and the story not half told.

Yours, truly,

JOHN B. HELM.

PENNSYLVANIA, *Bedford County*, ss:

Personally appeared before me John B. Helm, who, being duly sworn, deposes and says that the above and foregoing testimony was written by himself and that he was not prompted therein by anyone else whatever, and the facts contained therein are correct and true, to his best knowledge and belief.

JOHN B. HELM.

Sworn to and subscribed before me May 15, 1897.

[SEAL.]

JAMES CLEAVER, *Prothonotary*.

EXHIBIT F.

ELK POINT, S. DAK., *May 19, 1897.*

I, Charles Davis, being duly sworn, make the following statement: I am 60 years old, and at present reside at Elk Point, S. Dak.

During the late rebellion I was first lieutenant Company A, Twenty-fourth Iowa Volunteer Infantry. I was taken prisoner at the battle of Cedar Creek, Virginia, and sent to Libby Prison, and later to Danville, Va. There I became acquainted with Lieut. Merlin C. Harris, of the Ninety-sixth New York.

On or about February 5, 1865, I escaped from the guards while after water and hid in a woodshed. That night one of our men that had been paroled and acting as cook led me to an old oven near by, where I found Lieut. Merlin C. Harris, of the Ninety-sixth New York, and Lieut. J. B. Helm, of the One hundred and third Pennsylvania. After getting together we started for Plymouth, N. C., Lieutenant Harris having studied up the route. Said Harris was sick and nearly starved, but he had the courage of an iron man; he was thinly dressed and ragged. We forded streams and waded through water in swamps to escape from men and bloodhounds that followed us. The most of the time we had to hide in the woods through the day without any fire to warm or dry our wet clothes. Harris froze his toes during a snowstorm soon after our escape while we were hid in an old tobacco barn. Harris had a severe earache and it broke and ran a great deal and smelled very badly. We were thirty nights tramping through the rebel country and were badly exposed all the time. We arrived at our lines at Plymouth, N. C., and were soon on a gunboat. We kept together until we got to New York, then we parted, and I never saw him again until we met at the reunion at St. Paul, Minn., in the fall of 1896. We spent three days together. He told me of a tumor caused by a pin and showed me the rupture in his abdomen. He was nothing but a shadow of himself, and certainly is not able to perform any kind of manual labor. I believe it was caused by the pin he used to pin his clothes up with while we were on that trip from prison. He was troubled with diarrhea at this time. Lieutenant Helm, being better clothed, had a chance to keep his hands warm and would frequently help Harris. While we were crossing a stringer bridge one night Harris had a fainting spell, and after crossing Helm and I undressed him in a bitter cold night wind, and took off his drawers and threw them away, and washed him in ice-cold water, it being the best we could do. Harris was a brave soldier and never complained, and certainly should be rewarded for the misery he suffered.

I wrote the above without any dictation, and have no interest in his claim. I solemnly swear the above is true to the best of my knowledge and belief.

CHARLES DAVIS.

Subscribed and sworn to before me this 19th day of May, 1897.

[SEAL.]

A. D. KELLER, *Notary Public*.

GEORGE L. DURBIN.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 853.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 853) granting an increase of pension to George L. Durbin, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of George L. Durbin, of Cheyenne, Wyo.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 853) granting an increase of pension to George L. Durbin, have examined the same and report:

The records of the War Department show that this soldier enlisted May 9, 1864, in Company I, One hundred and thirty-fourth Regiment of Indiana Volunteer Infantry, and was mustered out September 2, 1864; also that he reenlisted January 27, 1865, in Company G, One hundred and forty-sixth Indiana Volunteer Infantry, as a corporal, and was honorably discharged August 31, 1865. According to the affidavit of comrades, the claimant was a good and faithful soldier, trustworthy and reliable, and addicted to no vicious habits whatever.

On the 8th of January, 1875, the beneficiary of the bill was caught in a terrible blizzard in Wyoming and was badly frozen, which resulted in the amputation of both feet. Immediately after the passage of the act of June 27, 1890, he made application for pension, alleging loss of both feet, rheumatism, and fainting spells.

He was examined by the board of examining surgeons in Cheyenne, Wyo., April 3, 1891, who reported, in addition to the loss of both feet, "marked valvular disease of the heart," and gave him a rating of \$72 per month under the general pension laws. Pension was allowed at \$12 per month, the maximum rate under the act of June 27, 1890.

Hon. Francis E. Warren, United States Senator from Wyoming, has filed a written statement in the case, in which he states as follows:

"Referring to S. 853, in favor of George L. Durbin, I beseech your committee to report it liberally and favorably at the earliest possible date, in order to relieve the wants of a very needy man.

"I know Mr. Durbin personally. Financially he is without means, and is not in physical condition to support himself."

From the foregoing statements it would appear that this man is utterly helpless, and without any means of support but the pension he is now enjoying, and this is wholly insufficient to supply him with the requirements that his condition calls for.

After giving due consideration to the foregoing facts, your committee is of the opinion that the bill is a meritorious one, and recommend its passage.

The bill is therefore reported back, with the recommendation that it pass when amended as follows:

In line 9, after the word "him," insert the words "a pension."

CHARLES H. JOHNSON.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2751.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 2751) granting an increase of pension to Charles H. Johnson, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of Charles H. Johnson, of Concord, N. H.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 2751) granting an increase of pension to Charles H. Johnson, have examined the same and report:

The facts in this case are as follows, as shown by the papers on file in the Pension Bureau:

This soldier served in Company E, First New Hampshire Volunteer Heavy Artillery, from September 2, 1864, to June 16, 1865. He is now pensioned at \$12 per month, for left inguinal hernia and disease of eyes, under the act of June 27, 1890, said pension commencing July 19, 1890. He made application under the general law January 2, 1892, alleging weak eyes, ending in blindness. This claim was briefed for admission, and approved by the reviewer, but on re-review was sent to the special examination division for special examination as to origin and continuance of disease of eyes, on the following slip, dated May 12, 1894:

"After a careful review of the evidence in this case, I believe that a special examination is warranted and necessary to determine definitely the origin of the alleged disease of eyes in the service, existence at discharge, and continuance to 1891.

"Prior soundness should be inquired into, as also the habits of the claimant prior to his enlistment and service, and their relation, if any, to the present condition of his eyes.

"While the claim is fairly established by comrades and lay testimony, there is no record nor medical evidence in service or since discharge until examined by the board of examining surgeons May 15, 1891, and claimant waited about twenty-seven years after discharge, and nearly two years after being pensioned under the act of 1890, before considering his disability pensionable under the general law. The highest rate of pension is probably involved."

The evidence on file shows conclusively and beyond the shadow of a doubt that claimant contracted a severe cold while in the service, and that this cold resulted in "night blindness" and eye trouble, which has continued up to the present time.

Claimant admitted to the special examiner that he "was slightly nearsighted

before enlistment." He was, however, examined by the agents of the Government and accepted into the service. Because of this admission the claim was submitted by the special examiner for rejection, and was accordingly rejected without ever going to the medical division to determine whether the nearsightedness which existed before enlistment had or had not any connection with the claimant's present disability.

The claimant is shown to be totally blind, and has proved that his disease of eyes originated in the service, and he should be pensioned for it.

If it could be shown that congenital nearsightedness predisposes to structural disease of the eyes, resulting in blindness, the Government would have a good case, provided the doctrine of "prior unsoundness" is to be admitted as a sufficient cause for rejection. But in this case no medical opinion has been ventured on that point, and it is a well-known fact to the profession that nearsightedness can not be accepted as a cause of blindness. This soldier incurred the disability while in the Army, the proof being conclusive on that point, and there is every reason to believe that blindness is the direct result. Had the claim been allowed in the Pension Bureau he would be receiving \$72 per month. This bill proposes to pension him at the rate of \$30 per month, and your committee recommend its passage, after being amended by inserting in line 6, after the word "First," the word "Regiment," and by substituting the words "Heavy Artillery," in line 7, for the words "Volunteer Infantry."

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 8 strike out the words "for total blindness."

EDWARD STANLEY.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1075.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1075) granting an increase of pension to Edward Stanley, have carefully examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$6 to \$24 per month the pension of Edward Stanley, of Fort Dodge, Kans.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1075) granting an increase of pension to Edward Stanley, have examined the same, and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, reported favorably, and passed the Senate. The report was as follows, which your committee adopt, and recommend the passage of the bill:

"This soldier enlisted under the name of Lawrence Finley, May 3, 1862, as a private in Company G, Twelfth Maine Infantry Volunteers, from which he was honorably discharged June 5, 1865, by reason of expiration of his term of service. Under the name of Edward Stanley he was enrolled August 17, 1863, and mustered into service September 30, 1863, as sergeant Company H, First Louisiana Cavalry. In the latter organization he participated in the battle of Carrion Crow Bayou, Louisiana, November 3, 1863, where he was seriously wounded in the head and was left for dead on the battlefield. A day or two after the battle he was picked up on the field by a scouting party of Confederates and left at a negro cabin. He was covered with blood from head to foot, and turkey buzzards flocking around him disclosed his location to the scouting party. In a few days he made his way back to the hospital in New Orleans, La. (from which he had enlisted in the First Louisiana Cavalry), and was admitted there November 13, 1863, and treated for gunshot wound of the head.

"On November 30, 1863, he left the hospital and rejoined Company G, Twelfth Maine Infantry Volunteers, and continued to serve as a private in that company until honorably discharged June 5, 1865, again assuming the name of Lawrence Finley. He was again seriously wounded in the right leg at the battle of Winchester, Va., September 19, 1864, and was pensioned for same at \$4 per month; increased to \$6 under act of March 2, 1895.

"The board of examining surgeons at St. John, Kans., who examined him April 20, 1892, rated him eight-eightieths for gunshot wound of head and eight-eightieths for functional disease of heart.

"Testimony filed with the committee show that claimant is totally disabled for the performance of manual labor, is in destitute circumstances, and is supported by the county authorities."

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "volunteers," insert the words "and pay him a pension."

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ARTICLE BY THE EDITOR

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CLARK W. HARRINGTON.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 769.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 769) granting an increase of pension to Clark W. Harrington, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill, as amended, proposes to increase from \$17 to \$30 per month the pension of Clark W. Harrington, of Knobview, Mo.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 769) to increase the pension of Clark W. Harrington, have examined the same and report:

A similar bill passed the Senate and was reported favorably by the House during the first session of the Fifty-fourth Congress.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

Clark W. Harrington served from November 27, 1861, to June 29, 1865, when he was mustered out and honorably discharged.

He filed claim for pension August 25, 1879, and was pensioned for "disease of eyes, chronic diarrhea, and gunshot wound of right forearm," at \$2 per month from June 30, 1865; at \$4 from August 4, 1880; afterwards increased to \$4 from June 30, 1865; \$6 from August 4, 1880; \$8 from October 11, 1881, and \$16 from July 11, 1883. Pension was rerated October 1, 1890, and \$2 per month granted from discharge to July 11, 1883, and \$17 per month since that date.

In the medical examination had in 1894 the board found impaired vision of right eye and total loss of sight of left eye, and that he was "wholly disabled from pensionable and other causes," but his claim for increase was rejected October 24, 1894, on the ground of "no increase of disability."

The facts presented to the committee show that claimant is suffering from results of chronic diarrhea and gunshot wound, and is now practically blind. The committee recommend that the bill be amended by striking out the words "of Knobview, Crawford County, Missouri," in lines 4 and 5; insert "a sergeant" between the words "late" and "of," in line 5; strike out the words "from and after passage of this act," in line 7; strike out all the printed bill after the word "receives," in line 8, and amend the title so as to read: "A bill to increase the pension of Clark W. Harrington."

And, as amended, your committee recommend the passage of the bill.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 4, strike out the words "pay to" and insert in lieu thereof the words "place on the pension rolls the name of."

In line 5, after the word "Infantry," insert the words "and pay him."

In line 6, strike out the word "fifty" and insert in lieu thereof the word "thirty."

In the case of Charles H. Johnson (S. 2751) the Senate has given only \$30 for a like disability, and this has been the action of the House generally.

Your committee see no good reason for a different rate in the two cases.

○

HARRIET M. KNOWLTON.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 408.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 408) and the bill (H. R. 2021) granting a pension to Harriet M. Knowlton, have examined the same and the evidence and report the Senate bill:

This bill in effect proposes to restore to the pension roll, at \$25 per month, Harriet M. Knowlton, of Long Prairie, Minn., as the widow of William Knowlton, major Twenty-ninth Maine Volunteers.

Soldier entered the service November 28, 1863, was mustered in as major December 17, 1863, and died September 20 on the field, of wounds received September 19, 1864, in the battle of Opequon, near Winchester.

This claimant was pensioned as his widow, at \$25 per month, from date of his death until November 26, 1867, when she was married to Albion P. Stinchfield, and the pension was continued to the minor children of the soldier until they severally became 16 years of age.

In May, 1889, claimant secured a divorce from Stinchfield on the ground of desertion, with authority to resume her former name, Harriet M. Knowlton.

A statement filed with this committee is to the effect that she is without other means of support than what she can earn by nursing, and that is stated in the reports made by the Senate and House committees in the Fifty-fourth Congress, and reported in the Senate this Congress. She is a woman of good character.

A similar bill passed both Houses in the Fifty-fourth Congress and was vetoed by the President. This committee reported it back to the House with the recommendation that it pass, "the objections of the President to the contrary notwithstanding."

The bill has again passed the Senate, and the reports in the Fifty-fourth Congress and the present Senate report, and the veto message of the President are herewith.

It has been settled by this Congress that it will restore to the pension roll war widows in these circumstances.

It is not the policy of the pension laws to discourage marriage. In fact it ought to be encouraged. When a widow remarries it is assumed that she has a means of support other than the Government aid, and for this and other good reasons she is not permitted to draw a pension during her remarriage. When she loses the second husband and is left in necessitous circumstances we can see no good reason why the pension should not be restored to the war widow.

The bill is reported back with the recommendation that it pass.

TIME FOR HOLDING UNITED STATES COURTS IN IDAHO AND WYOMING.

APRIL 15, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. DE ARMOND, from the Committee on the Judiciary, submitted the
following

REPORT.

[To accompany S. 3088.]

The Committee on the Judiciary, having had under consideration the bill (S. 3088) entitled "An act to amend 'An act to provide the times and places for holding terms of the United States courts in the States of Idaho and Wyoming,' approved July 5, 1892, as amended by the amendatory act approved November 3, 1893," having considered the same, recommend that it do pass.

○

GEORGE S. WALTON.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DE GRAFFENREID, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7841.]

The Committee on Pensions, to whom was referred the bill (H. R. 7841) granting increase of pension to George S. Walton, beg leave to report as follows:

The claimant was a sergeant in Company N, Second Missouri Mounted Volunteers, Mexican war, and he is now a pensioner at \$12 per month under the acts of January 29, 1887, and January 5, 1893. He swears that at the battle of Pueblo de Taos he was struck in the breast by an arrow, which he pulled out, cut the spike off and placed it in his cartridge box. This wound, though slight, would not heal, the arrow being copper spiked and poisonous. Subsequently, during his service, his horse fell with him, the horn of the saddle striking him in the breast, breaking two ribs and causing a rising on his lungs, which burst in October, 1847. He further swears that he has had a cough ever since, and that in November, 1874, a cancer made its appearance on his breast, and his body has been infested with carbuncles and cancers ever since.

His present condition he declares to be as follows: His nose is entirely gone, his left eye paralyzed and useless, his left ear nearly gone, externally and internally, and the left side of his face paralyzed; his jaw is locked so that he has to place his victuals in one side of his mouth with his finger, and his right shoulder is withered and perished away.

The claimant's statement of his present serious condition is fully substantiated by medical and other evidence on file, and it is further shown that he and his aged wife are entirely dependent upon his pension for support.

He filed a claim under the general pension laws based upon the above disabilities, but after furnishing some testimony in support thereof the claim was rejected on the ground that subsequent to his Mexican service he enlisted in the Confederate army. This, however, is not a bar to the service pension now drawn by him.

In the light of the deplorable physical condition of the applicant, and in view of his long and meritorious service at the front during the Mexican war, your committee recommend the passage of the bill with the following amendments:

In line 5 strike out "Cavalry" and substitute therefor "Mounted Volunteers."

In line 6 strike out "forty" and insert in lieu thereof the word "twenty-four."

CHARLES DAGENFIELD.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3364.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3364) to correct the military record of Charles Dagenfield, submit the following report:

Charles Dagenfield, late of Company H, Seventeenth Regiment United States Infantry, was tried by a general court-martial convened at Columbus Barracks, Ohio, and found guilty of absence without leave (from about 6 p. m., September 14, to about 5 a. m., September 15, 1896), was sentenced "to be dishonorably discharged the service of the United States, forfeiting all pay and allowances due him, and to be confined at hard labor, at such post as the reviewing authority may direct, for three months."

This sentence was fully executed.

Inasmuch as said Charles Dagenfield was absent from his post only eleven hours, we consider that the penalty imposed was ample without the dishonorable discharge, the evidence showing that he was at the home of his father over night and returned voluntarily early in the morning.

Your committee recommend that the bill do pass, with the following amendments:

In line 4, after the word "to," strike out the words "remove the charge of desertion from" and insert in lieu thereof the word "correct."

In line 8 strike out the word "November" and insert in lieu thereof the word "December."

NELS MILLER.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STRODE, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 5647.]

The Committee on Pensions, to whom was referred the bill (H. R. 5647) granting a pension to N. Miller, have considered the same, and respectfully report as follows:

The claimant is the father of Peter Miller, deceased, a naval cadet, who was accidentally killed by the bursting of a steam pipe aboard the U. S. S. *Tennessee*, April 2, 1883.

The following is a copy of proceedings and investigation following the death of Cadet Miller:

U. S. FLAGSHIP TENNESSEE (FIRST RATE),
At Sea, Lat. 26° 27' N., Long. 86° 00' W., April 4, 1883.

GENTLEMEN: In addition to the duties assigned you in my letter of the 2d instant, you will please investigate all the circumstances attending the fatal accident to Naval Cadet Peter Miller, which occurred on the evening of the 2d instant. At the conclusion of your investigation of this matter, you will forward to me a separate report containing all the information you can obtain in regard to it.

Very respectfully,

G. H. COOPER,
Rear-Admiral, Commanding U. S. Naval Force on North Atlantic Station.

P. A. Engineer JOHN D. FORD, U. S. N.
P. A. Engineer R. W. MILLIGAN, U. S. N.
Lieut. E. W. REMEY, U. S. N.

U. S. FLAGSHIP TENNESSEE (FIRST RATE),
Key West, Fla., April 6, 1883.

SIR: In obedience to your order of the 4th instant, we have made a careful investigation of all the circumstances attending the fatal accident to Naval Cadet Peter Miller, and respectfully submit the following:

On the afternoon of the 2d instant, while this ship was standing through the jetties at the mouth of the Mississippi River, Mr. Miller was severely scalded by the bursting of the steam pipes in the passageway leading from the engine room to the after fire room, being at the time on duty in charge of the after fire room.

From all the evidence we could obtain he was, at the time of the accident—about 5.40 p. m. of the 2d day of April, 1883—on his way from the engine room to the after

fire room, having compared the steam pressures, and he must have been almost under the line of rupture of the steam pipe at the time of bursting. After being injured he found his way to the foot of the engine room ladder, where he was met by Chief Engineer Brooks, who assisted him up the ladder to the engine-room door. Here he was met by Assistant Engineer W. F. Durand, who helped him to the port steerage and immediately called the medical officer. Every attention was shown him and everything done to relieve his sufferings, a medical officer being in attendance until he died the next morning.

We have made a most careful investigation of the cause of the accident to the steam pipes, and conclude that it was due to inferior metal of which the pipe was made, and probably bad workmanship in their construction, which only could have been discovered by the means of pressures.

We find that Naval Cadet Peter Miller died on board the U. S. flagship *Tennessee*, at sea, latitude $27^{\circ} 58'$ N., longitude $88^{\circ} 02'$ W., at 7.45 a. m., on the 3d day of April, 1883, from injuries received by the bursting of the main steam pipes leading from Nos. 7 and 9 boilers to the engines, he being at the time on duty in charge of the after fire room, and for which accident no one on board can be blamed.

Very respectfully,

JOHN D. FORD, *P. A. Engineer.*
R. W. MILLIGAN, *P. A. Engineer.*
EDWARD W. REMEY, *Lieutenant.*

Rear-Admiral G. N. COOPER, U. S. N.,
Commanding United States Naval Force on North Atlantic Station.

Had Nels Miller, the father, been dependent upon the deceased cadet at the time of his death, he would have been entitled to a pension of \$10 per month under the general pension laws, but dependence did not arise until subsequently, and hence no claim has been filed at the Pension Bureau.

A number of affidavits accompanying the bill show that the mother of the cadet (who, under the general law, would have had the prior right to the pension) died before the death of her son; that the father, the beneficiary, is now 74 years old, unable to work, and with no income or property aside from a small home in the city of Topeka, Kans. The father spent large sums of money, which he had to borrow, for the education of his son, and the latter was paying this back at the time of his death. The cadet was never married.

Your committee think it fair to presume that if the cadet had lived he would have made provision for the support of his father in his old age and dependency, and if the cadet's death had occurred under the circumstances above described during the civil war instead of since the war the father would have been entitled under the act of June 27, 1890.

The passage of the bill is respectfully recommended, with an amendment changing the claimant's name so as to read "Nels Miller;" also by adding after the word "*Tennessee*," in line 8, the words "and pay him a pension at the rate of ten dollars per month."



FORT SMITH AND WESTERN COAL RAILROAD COMPANY.

APRIL 15, 1898.—Referred to the House Calendar and ordered to be printed.

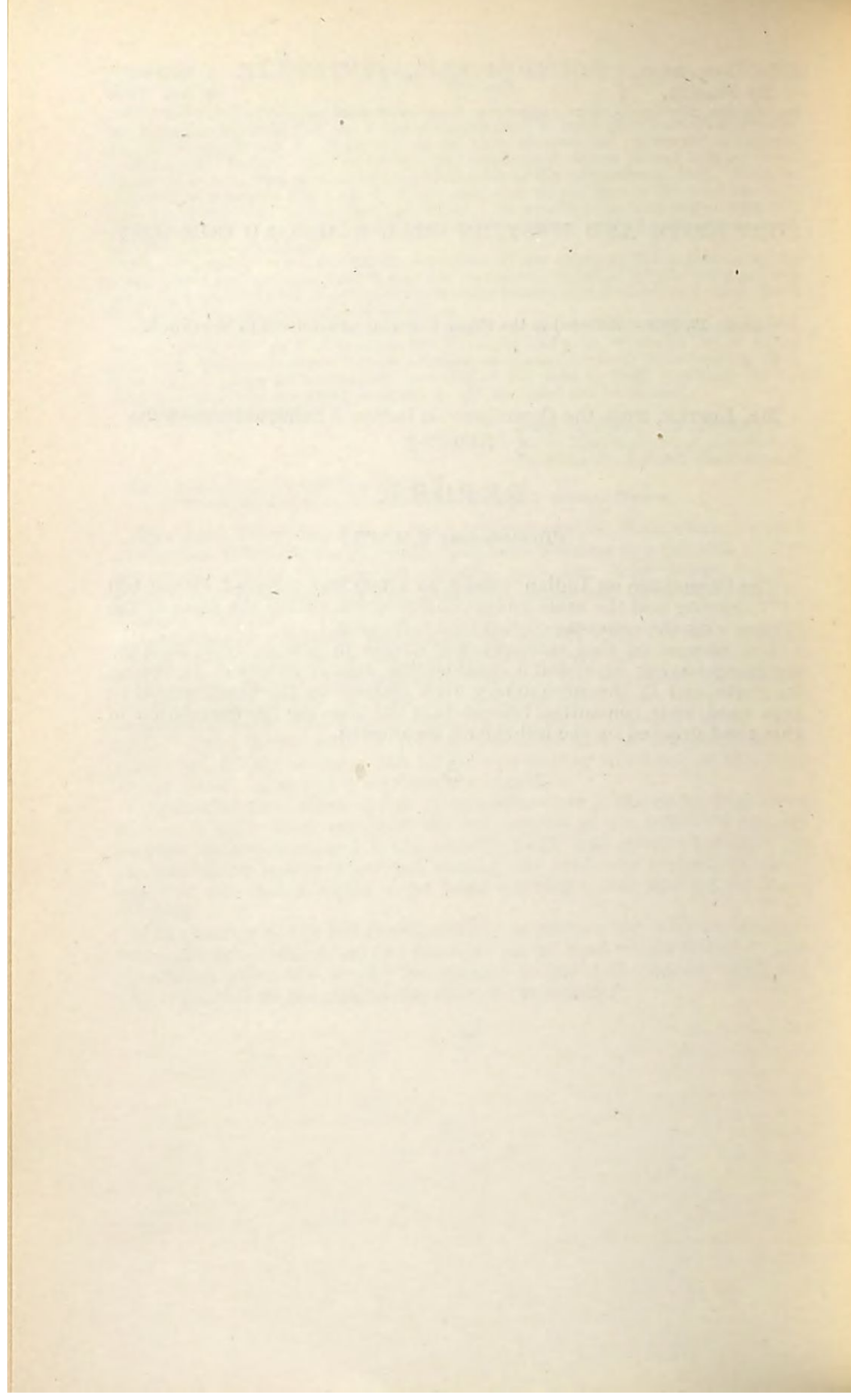
Mr. LITTLE, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 9477.]

The Committee on Indian Affairs, to whom was referred House bill 9477, having had the same under consideration, return the same to the House with the recommendation that it do pass.

The charter of this company will expire in March, 1899, and, the company having expended a considerable sum of money in surveying its route and in the preliminary work looking to the construction of this road, your committee believe that the time for the completion of this road granted by the bill should be allowed.



JAMES HENNESSY.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3537.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3537) to correct the military record and to grant an honorable discharge to James Hennessy, having had the same under consideration, would report thereon as follows:

It is shown by the records of the War Department that James Hennessy, aged 20, was enrolled February 10, 1862, and was mustered into service on February 12, 1862, as a private in Company B, Third New York Light Artillery, to serve during the war.

He was promoted corporal February 6, 1864, and appears to have served faithfully till August 24, 1864, when he is reported "absent on twenty days' furlough."

On the company muster roll dated October 31, 1864, he is reported "absent without leave," and on that dated December 31, 1864, "deserted while on furlough." He did not return to his company, which remained in service until July 15, 1865, nor does it appear that he reported to the military authorities at any time from the date of his desertion to the close of the war.

The evidence shows that, the soldier's father having died, he was granted a furlough of twenty days to return to his home in New York. Desiring to return to his battery a reasonable time before the expiration of the furlough, he reported to the provost-marshal for transportation. There being but one steamship leaving New York each week for Hilton Head, S. C., that being the route to Morris Island, S. C., he was detained for transportation and sent by the officer to Fort Lafayette. On arriving there he was detained and prevented from rejoining his battery.

Soon after his detention at Fort Lafayette the soldier wrote a letter to his commanding officer, First Lieutenant Wildt, reporting the facts, and received an answer stating that the battery was under marching orders, but that the officer would have him sent to the battery in a few days.

It is further shown that Lieutenant Wildt was killed soon after the soldier wrote to him, at Honey Hill, S. C.

The affidavit of George E. Fisher, late first sergeant of the soldier's battery, shows that Lieutenant Wildt, before his death in the battle at Honey Hill, S. C., informed him that he had received a letter from the soldier asking to be returned to his battery, but that before that officer could take any steps toward having him returned he was killed.

James Hennessy's record as a soldier is good, and his correct character is well sustained by the evidence of his neighbors.

Your committee favorably report this bill, with the following amendment: Add after the word "sixty-five," in line 10:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

O

WILLIAM D. KURFISS.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 8336.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 8336) to correct the military record of William D. Kurfiss, submit the following report:

William D. Kurfiss enlisted as a private in Company A, Seventeenth Ohio Infantry, on April 22, 1861, for three months, served honorably and was mustered out with his company on August 15, 1861, having served nearly a month over his term of enlistment. He again enlisted in September, 1861, as a private in Company F, First Ohio Cavalry, to serve three years.

Under this enlistment he served honorably three years and four months, and on January 4, 1864, he reenlisted for another term of three years in the same company and regiment. During his term of enlistment he took part with his company and regiment in nearly fifty battles and skirmishes, and proved himself a brave soldier, always ready for duty, and never shrinking from any demand made on him, as is testified by many commissioned and noncommissioned officers of his company and regiment.

His soldierly conduct, his readiness to join his comrades in every engagement, his cheerful service over the time of his first enlistment, as well as for four months over the time of his second enlistment, the latter being in the actual presence of and frequent conflict with the enemy, his reenlistment as a veteran, all serve to demonstrate that he was a good soldier, without the slightest inclination to desert his colors or shrink from any soldierly duty.

In December, 1864, his regiment was ordered from the front to the rear at Louisville, Ky., to be remounted, and he went with it. During the winter of 1864-65, while his regiment was awaiting its remount at Louisville, he learned of the serious illness of his father at his home in Fairfield County, Ohio, and he went to his home to see his sick father. His father lingered as a paralytic, and died in April, 1865—about the

time the war closed—Kurfiss remaining with him openly and with no attempt at concealment.

When the war closed he supposed there was no further actual need for him as a soldier, as was really the fact, so he did not return to his company. He served as a soldier altogether, under his first, second, and third enlistments, about three years and eight months, covering the entire period when his command was actually confronting the enemy, and only left when the war was practically ended, so far as his command was concerned, prompted alone by the very natural and pardonable desire to be with his father in his fatal illness.

It seems to be a very technical and very excusable case of desertion, and we therefore recommend that the bill do pass, with the following amendment:

Add after the word "sixty-four," in line 6, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

○

GEORGE W. DUNNING.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 638.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 638) for the relief of George W. Dunning, submit the following report:

The war records show the following facts: George W. Dunning was enrolled October 15, 1861, and mustered into the service January 1, 1862, as a private in Company A, Twenty-fifth Kentucky Infantry Volunteers, to serve three years. He was present with his company until February 15, 1862, when he was wounded in action at Fort Donelson, Tenn., and sent to the hospital for treatment. While absent in hospital he was transferred to Company G, same regiment, the muster-out roll of which, dated January 25, 1865, reports him dropped as a deserter July 31, 1862. Dunning declares in his own statement that he was wounded at Fort Donelson, Tenn., February 14, 1862, and sent to the hospital at Henderson, Ky., where, after a partial recovery, he received a furlough to go home. This furlough was destroyed by his wife, she fearing he would be captured by the rebels. After recovering sufficiently from his wounds he suffered from an attack of pneumonia.

When able to travel he endeavored to return to his command, but was prevented from so doing by the officer in charge at Hopkinsville, Ky., who had him arrested and held him under arrest for several weeks, and then proposed that he should enlist in his regiment, the Third Kentucky Cavalry. The applicant applied for transportation to his own command, but says this was refused, and he finally consented to enlist in the regiment then stationed at Hopkinsville, and served therein for several months. He says when he enlisted he was promised the usual pay, but when pay day came around he was refused upon the ground that he had not been regularly mustered in. He then asked what he should do, and was advised by one of the officers to go home, and, being ignorant of military law, he knew nothing else to do.

I. B. and John T. Long testified March 7 and May 17, 1890, respec-

tively, in effect, that when applicant returned home on furlough in July, 1862, he was suffering from wounds of the right eye and left leg, and that he was unable to return to duty.

Richard W. Williams, first sergeant Company A, Twenty-fifth Kentucky Volunteers, states that—

George W. Dunning was a private in his company, and was a brave and good soldier, and that at the battle of Fort Donelson he was wounded by being struck by a ball or a missile just beneath or near the corner of the right eye; also shot in the left thigh, the ball passing through. He saw him several times during the following summer. He was still suffering from the wound in his thigh. He is now 65 years old, feeble, and almost blind. He is poor, but a moral and good citizen, and deserves aid from the Government.

Accompanying the papers in this case is a petition from a number of citizens well acquainted with the applicant, who testify to his good character and helpless condition.

Having carefully considered the facts in this case, your committee are of the opinion that the bill should pass, with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.



JAMES GEISSINGER.

APRIL 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 5758.]

The Committee on Military Affairs, to whom was referred for consideration House bill 5758, respectfully report as follows:

This bill is for the purpose of removing the charge of desertion now borne on the records of the War Department against the name of James Geissinger, enrolled as private in Company A, Seventy-second Ohio Infantry. We have made careful examination of the records and sworn testimony submitted, and find that the said Geissinger enlisted October 18, 1861, at the age of 16 years, and served under such enrollment until January 1, 1864, when he reenlisted as a veteran volunteer in the same company and regiment.

It is established that he was a brave, faithful, enthusiastic soldier, performing with cheerful fidelity every duty until October 19, 1864, when he is reported as "deserted" on the military records.

The evidence shows that Private Geissinger at that time was with his company in the State of Missouri, with other troops, in pursuit of the Confederate general (Price) and his forces. For some time previous to this Geissinger had been suffering from diarrhea and consequent debility, but with indomitable spirit had kept up and remained in line with his comrades in their constant and continued marches through Arkansas and Missouri until on a forced march after night near Sedalia, Mo., his strength gave out. He reported to the officer in command of his company, Lieut. J. F. Herrington, who sent him to the major of the regiment. The major told him that every ambulance was full, that there were no other means of transportation, and advised him to do the best he could for himself.

For a while Geissinger struggled along with the troops until about midnight, when he sank from exhaustion and was left by the roadside in a semiconscious condition. He fell asleep and did not awaken until the next day, alone and with no knowledge of the location of his comrades. He started to find them, but, weak with debility and hunger, could not go far. Applying at a house for food and information,

he was told it would be impossible to reach his command on account of the guerrillas and bushwhackers infesting the region.

He, however, started out to make the attempt, wandering through woods and byways for several days, when his strength failed and he was compelled to give up the attempt, and found a stopping place with a kindly farmer, where he remained until January, 1865, when he started out again in search of his company, but the difficulties were so great—the country infested with scattered guerrilla bands; having no means, weak in body, and ignorant of the country and the location of the forces of either army—that he became discouraged from attempting to face the dangerous risk of trying to reach his regiment, and decided to wait until an opportunity should arise to either bring the Army near him or carry him in, safety to the Union lines. This he did until, within a few months, Lee surrendered and the war closed. In his youth and inexperience Geissinger was ignorant of the necessity of his being regularly mustered out of the service, hence did not after that seek to return to his regiment. While in one way it has no direct bearing on this case, we deem it well to say that Geissinger's father and three of his brothers served in the Union Army, and were honorably discharged, except two of his brothers, who were killed in battle.

Finally, your committee finds that James Geissinger was a patriotic youth, a diligent, faithful, conscientious soldier; that his separation from his company was beyond his control; that he imperiled his life in his attempt to rejoin his command, and made every reasonable effort to complete his full term of enlistment, and we therefore recommend that the bill do pass with the following amendment:

Add after the word "Infantry," in line 7, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

MARY M. MACAULEY.

APRIL 16, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 486.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 486) granting a pension to Mary M. Macauley, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension, at the rate of \$30 per month, Mary M. Macauley, of Indianapolis, Ind.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 486) granting a pension to Mary M. Macauley, have examined the same and report:

A similar bill passed the Senate during the second session of the Fifty-fourth Congress, and was reported favorably by the House.

The Senate report is as follows, which we adopt, and recommend the passage of the bill.

Soldier's service is fully set forth in the following:

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, February 14, 1896.

SIR: Referring to the letter of yesterday (received to-day) from the assistant clerk of the Committee on Invalid Pensions, in which letter a statement showing the military record of Col. and Bvt. Brig. Gen. Daniel Macauley is requested for the use of your committee, I am directed by the Secretary of War to inform you that the records show as follows:

Daniel Macauley was mustered into service as first lieutenant and adjutant Eleventh Indiana Infantry Volunteers (three months' organization) April 25, 1861, and was mustered out, with field and staff, August 4, 1861.

He was mustered in as first lieutenant and adjutant Eleventh Indiana Infantry Volunteers (three years' organization) August 31, 1861; as major, same regiment, to date April 21, 1862; as lieutenant-colonel, same regiment, to date September 4, 1862; and as colonel, same regiment, to date March 10, 1863, and was mustered out as of the latter grade, with the field and staff, July 26, 1865. He was commissioned as colonel, Ninth United States Veteran Volunteers (Hancock's corps), August 2, 1865; was mustered in as such August 10, 1865, and was mustered out and honorably discharged March 12, 1866.

He was appointed brigadier-general of volunteers by brevet, to date from March 13, 1865, "for gallant services at the battle of Cedar Creek, Virginia."

The bimonthly muster rolls of his regiments show him as follows:

From July and August, 1861 (first on file), to November and December, 1861, present; from March and April, 1862 (next on file), to November and December, 1862, present; January and February, 1863, ordered North on official business by General Gorman; March and April, 1863, present; May and June, 1863, absent on account of wound received at Champion Hill; July and August, 1863, and September and October, 1863, present; November and December, 1863, commanding First Brigade, Third Division, Thirteenth Army Corps; January and February, 1864, and March and April, 1864, present; May and June, 1864, absent commanding post at Thibodaux, La.; July and August, 1864, present; September and October, 1864, in command of Third Brigade, Second Division, Nineteenth Army Corps, September 20, 1864; November and December, 1864, absent with leave on surgeon's certificate; January and February, 1865, commanding Second Separate Brigade, Eighth Army Corps, and from March and April, 1865, to January and February, 1866, present.

The medical records show that he was admitted to the regimental hospital May 16, 1863 (diagnosis or disposition not stated); that he was admitted to hospital steamer *City of Memphis* May 23, 1863, with gunshot wound left thigh, and transferred May 27, 1863; that he was admitted to officer's general hospital, Memphis, Tenn., May 27, 1863, with gunshot wound left thigh, received May 16, 1863, and on leave of absence May 28, 1863; that he was admitted to depot field hospital, Nineteenth Army Corps, Winchester, Va., October 19, 1864, with gunshot wound, flesh, right thigh, received at Cedar Creek, Virginia, October 19, 1864, and transferred October 20, 1864; that he was admitted to general hospital, Camden street, Baltimore, Md., October 24, 1864, "with gunshot wound, flesh, right thigh, upper third, ball remaining;" and returned to duty November 2, 1864.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

Hon. JOHN A. PICKLER,

Chairman Committee on Invalid Pensions, House of Representatives.

Soldier applied for pension April 7, 1866, and was pensioned from discharge at \$15 per month, increased to \$22.50 from August 17, 1888, for gunshot wounds of both hips and right thigh. He died July 5, 1894.

Claimant (the widow) was married to soldier March 26, 1863. Owing to soldier's death being complicated with fever, it is impossible to connect the death cause with the service satisfactorily.

The widow applied for pension under act of June 27, 1890, which was rejected on the ground that she was not without other means of support within the meaning of that act.

Considering the brilliant and valuable services of the soldier, the age and circumstances of his widow, the committee recommend the passage of the bill, with an amendment striking out the word "fifty," in line 8, and inserting "thirty" in lieu thereof.

Your committee recommend the passage of the bill.

We have here a case where the Senate only grants to this old and needy widow of a brigadier-general, who was shot through both hips and one thigh in actual battle and who carried a bullet to the grave, a pension of \$30 per month. It is more than probable that his death was due to his service, and still it can not be satisfactorily proved.

In the case of the widow of General Stevenson, who lived to a ripe old age, and suffered no disability of service origin, the Senate granted \$50 per month.

Your committee most emphatically call attention to the inconsistency of such action. The one case is as deserving and meritorious as the other, and both widows should be treated alike, and if a distinction is made it should be in behalf of Mrs. Macauley.

The bill is in line with the policy of the House. It is reported back with the recommendation that it pass when amended as follows:

In line 8, after the word "pension," insert the words "at the rate."

Amend the title so as to read: "An act granting a pension to Mary M. Macauley."

CASSIUS M. CLAY, SR.

APRIL 16, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1119.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1119) granting a pension to Cassius M. Clay, sr., have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension, at the rate of \$50 per month, Cassius M. Clay, sr., of Whitehall, Ky.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1119) granting a pension to Cassius M. Clay, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

The following is the military record of General Clay, as furnished by the War Department:

Case of Cassius M. Clay, sr., late major-general, United States Volunteers.

It is shown by the records that Cassius M. Clay was mustered into service as captain Company I, First Regiment Kentucky Cavalry (Mexican war), with the company June 9, 1846, at Louisville, Ky., to serve twelve months; that on August 31, 1846, he was absent from his company with leave; that on October 31 and December 31, 1846, he was present with his command, and that on January 22, 1847, he was taken prisoner by the enemy at Incarnation, Mexico. On the muster-out roll of the company, dated June 7, 1847, he is reported absent, taken prisoner at Incarnation, Mexico, January 22, 1847.

The records also show that Cassius M. Clay was captain and major of a military organization designated "The Cassius M. Clay Battalion" or "Washington Clay Guards," the members of which tendered their services to the Government in April, 1861, for the defense of the city of Washington until the arrival of the troops called for by the President's proclamation of April 15, 1861. There is no evidence that the organization was mustered into the military service of the United States, and there are no records of the force on file, excepting two manuscript rosters containing the names of the officers and enlisted men composing the organization, dated, respectively, April 18 and 23, 1861, and a manuscript roster of the officers of the battalion,

dated April 28, 1861. These rosters do not show the period of service of the organization nor how long Cassius M. Clay commanded it.

It is further shown by the records that Cassius M. Clay was commissioned major-general of volunteers April 15, 1862, to rank from April 11, 1862; that he accepted the appointment June 17, 1862; that on September 11, 1862, he was assigned to duty in the Department of the Gulf, and that his resignation as major-general of volunteers was accepted March 11, 1863.

No record has been found showing that he received medical treatment while a member of either of the organizations mentioned, or while he was major-general of volunteers.

Respectfully submitted.

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,

War Department, February 4, 1897.

The SECRETARY OF WAR.

General Clay resigned from the Army to accept the position of minister to Russia, to which position he was appointed by President Lincoln. He is now over 80 years of age, is in infirm health, and unable to give attention to business. He has a comfortable home for life, but our information is that he is without available means to meet his current and necessary expenses.

For these reasons your committee report favorably the bill for his benefit, with an amendment. Amend by striking out "one hundred" and inserting "fifty."

The bill is therefore reported back with the recommendation that it pass, when amended as follows:

In line 7, after the word "pension," insert the words "at the rate."

Amend the title so as to read: "An act granting a pension to Cassius M. Clay, senior."

O

WILLIAM B. MURRAY.

APRIL 16, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4283.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4283) granting an increase of pension to William B. Murray, beg leave to submit the following report, and recommend that said bill do pass, with amendments.

This bill as amended proposes to increase from \$12 to \$30 per month the pension of William B. Murray, of South Pittsburg, Tenn., who served under the name of William R. Murray in Company I, Tenth Tennessee Infantry, from July 16, 1863, to June 23, 1865, and was honorably discharged. The records show him to have been absent in hospitals at Nashville, Tenn., and Kingston Springs for considerable time, but the records fail to show for what diseases or disabilities he was treated in said hospitals.

He filed a claim May 17, 1880, under the general law, based on rheumatism and impairment of eyesight, and in July, 1880, alleged chronic diarrhea and piles. The claim on account of rheumatism was established and admitted and he was pensioned therefor at \$2 from discharge, and \$6 from September 4, 1889, to June 8, 1891, when increased to \$12 under the Act of June 27, 1890, for rheumatism, total blindness, and disease of rectum, and that pension he is now receiving.

Soldier alleges that his disease of eyes and chronic diarrhea and piles originated in the service, but, owing to the lack of record evidence, the record failing to show the disabilities for which he was treated in the service, he was unable to establish that fact.

He is shown, however, to be totally blind and seriously disabled by rheumatism and chronic diarrhea and piles, and to be totally helpless in consequence thereof, so as to require regular and constant aid and attendance of another person. He is also shown to be financially dependent, having no means of support except his pension of \$12 per month.

The soldier's poverty and helpless condition justify an increase to \$30 per month.

The bill is reported back with the recommendation that it pass when amended as follows:

In lines 4 and 5 strike out the words "of South Pittsburg, Marion County, Tennessee."

Strike out all of lines 7 to 12, inclusive, and insert in lieu thereof the following: "and pay him a pension at the rate of thirty dollars per month in lieu of the pension he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to William B. Murray."

To the honorable Congress of the United States:

I enlisted in Company I, Tenth Tennessee Infantry, on July 1, 1863, for three years or during the war. I was discharged July 3, 1865, by order of the War Department. During the winter of 1863-64, while in the service, I contracted a severe cold, which resulted in rheumatism and catarrh of the head, the same being protracted for thirteen weeks. I was treated in field hospital at Kingstons Springs, in middle Tennessee. I was treated by the regimental surgeon.

During the summer of 1864 I was troubled with camp diarrhea. My health was much impaired by the heretofore-mentioned diseases until 1872, at which time I had a collapse, which resulted in total blindness, and I have never seen any since.

I have also continued to suffer with chronic diarrhea, at the same time being dropsical. I have been totally disabled ever since. I am now drawing a pension of \$12 per month under the act of June 27, 1890; the number of my pension certificate being 456999.

I find that this is not adequate for the support of a man in my helpless condition. I therefore respectfully request Congress through a special act to grant me more relief.

WILLIAM (his x mark) B. MURRAY.

Subscribed and sworn to before me this November 25, 1897.

[SEAL.]

JNO. T. RAULSTON, *Notary Public.*

STATE OF TENNESSEE, *Marion County:*

DEAR SIR: I desire to hereby certify that I belonged to Company I, in the Tenth Tennessee Infantry, and at one time served in capacity of sergeant. William B. Murray also belonged to the aforesaid company. I knew him personally for about two years during the war, and know his military record to be good. I knew him to be so sick during the war that he was confined to the hospital for a considerable time.

I know him to be totally blind at the present time, and I am confident that \$12 per month is not sufficient to furnish the necessities of life to a man in so helpless a condition as Mr. Murray is now in. Therefore I would respectfully recommend that Congress grant him more relief.

I desire to further state that I am not interested directly or indirectly in this claim.

R. S. PRYOR.

Subscribed and sworn to before me this November 24, 1897.

[SEAL.]

JNO. T. RAULSTON,
Notary Public.

Hon. JOHN A. MOON,
House of Representatives.

STATE OF TENNESSEE, *Marion County:*

This is to certify that I am personally acquainted with William B. Murray, and know him to be a good citizen. He is totally blind, and has been so for a number of years. He has no means of support that I know of except a pension of \$12 per month.

I think this inadequate for the support of a man in so helpless a condition as Mr. Murray is in. Therefore I would request Congress to grant him more relief.

JOHN G. KELLY, *County Judge.*

Subscribed and sworn to before me this November 24, 1897.

[SEAL.]

JNO. T. RAULSTON, *Notary Public.*

SOUTH PITTSBURG, TENN., November 25, 1897.

To whom it may concern:

This is to certify that I have known Mr. William B. Murray for twenty years; during that time he has been totally blind, and, in addition to his blindness, he has been a sufferer from rheumatism. In the year 1877 I first treated him, and found his condition as follows: His general system was worn down from what I regarded as hard service in the Army. His rheumatism had developed some heart trouble, and he was dropsical. His right eye had ruptured from inflammation, and his left eye destroyed by sympathy with the right eye.

He has been peculiarly unfortunate, and no old soldier who served in the Union Army is more worthy of a blind pension than he is, and really think he would long since have secured a pension adequate to his disabilities had they been clearly and properly presented to the Pension Department.

I make this statement from no other motive but to secure justice to the old man. We are not related, and these remarks are all in my own handwriting; given freely and voluntarily, with the earnest hope that he may soon secure sufficient aid from the Government to make him comfortable during the remainder of his life.

Respectfully,

T. W. JOHNSTON, M. D.

Subscribed and sworn to before me this November 25, 1897.

[SEAL.]

JNO. T. RAULSTON,
Notary Public.STATE OF TENNESSEE, *Marion County*.

DEAR SIR: This is to certify that I have been acquainted with William B. Murray, of Company I, Tenth Tennessee Infantry Volunteers, for the last fifteen years, and know him to be a man of good morals, and know him to be totally blind and totally dependent for his support, and know that the \$12 per month that he gets under the act of June, 1890, is not sufficient to cover the necessary expense of an independent living; therefore would ask your honor to introduce a special pension bill in his behalf, and request that Congress give him a full blind-man pension.

Yours, respectfully,

SAMUEL T. HASKEW.

Subscribed and sworn to before me this November 24, 1897.

[SEAL.]

JNO. T. RAULSTON,
Notary Public.Hon. JOHN A. MOON,
*House of Representatives.*STATE OF TENNESSEE, *Marion County*:

This is to certify that I am personally acquainted with William B. Murray and know him to be an honorable and upright citizen.

He is totally blind and has no means of support that I know of, except \$12 per month pension. I am certain that this is not adequate to support a man in Mr. Murray's condition.

I would therefore request that you aid him in getting more relief.

[SEAL.]

G. W. GLENSON, *Clerk.*

Hon. JOHN A. MOON, M. C.

STATE OF TENNESSEE, *Marion County*:

In pension claim No. 456999 of William R. Murray, late a private.

Personally appeared before me, James M. Bible, clerk of county court of Marion County, S. B. Raulston, aged 42 years, and a resident of Jasper, Tenn., who, being duly sworn according to law, states that he has been acquainted with the claimant, William R. Murray, for twenty-five years, and knows the said claimant to be totally blind and has been for about twenty years. I am informed that he is now drawing a pension of \$12 per month, and believing that this rate is not sufficient to keep

him, and knowing that he has no other means of support. He is sober, not addicted to any vicious habits.

Knowing the above statement to be true, would ask that his pension be raised.

SAM B. RAULSTON.

Sworn and subscribed to before me this November 24, 1897.

[SEAL.]

JAMES M. BIBLE,
County Court Clerk.

Hon. JOHN A. MOON, M. C.

STATE OF TENNESSEE, *County of Marion* :

In pension claim No. 456999 of William R. Morry, late a private in Company I,
Tenth Tennessee Infantry.

Personally appeared before me, a notary public in and for the county of Marion and State of Tennessee, duly authorized to administer oaths, James M. Bible, aged 39 years, a resident of Jasper, Tenn., and also clerk of the county court, who, being duly sworn according to law, states that he is acquainted with the claimant, William R. Morry, and has been for twenty-seven years, and knows the claimant to be totally blind and has been for twenty years.

The claimant is drawing a pension of \$12 per month, and he believes that this rate is too small to keep him up and care for him as a blind man. He knows the claimant and knows that he has no means of support other than his pension, to wit, \$12 per month. Said claimant is not addicted to any vicious habits and is a sober, pious, and temperate man, and deserves an increase.

He would recommend that Congress grant him more relief by a special act.

JAMES M. BIBLE.

Subscribed and sworn to before me this November 24, 1897.

[SEAL.]

JOHN T. RAULSTON, *Notary Public.*

Hon. JOHN A. MOON, M. C.

O

A. C. LITCHFIELD.

APRIL 16, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5385]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5385) granting a pension to A. C. Litchfield, beg leave to submit the following report, and recommend that said bill do pass with amendments.

This bill, as amended, proposes to pension, at \$30 per month, A. C. Litchfield, of Oakmont, Allegheny County, Pa.

This soldier served as captain Company B, Fifth Michigan Cavalry, from August 27 to November 14, 1862, and from that date to May 21, 1865, as lieutenant colonel Seventh Michigan Cavalry, when he was made colonel. He was honorably mustered out May 26, 1865.

The record shows that he reported to medical director's office January 16, 1864, with fever; that he was captured March 1, 1864, confined at Richmond, Va., and Macon, Ga.; was admitted to hospital at Richmond, Va., June 5, 1864 (cause not stated); paroled at N. E. Ferry, N. C., March 1, 1865; reported at medical director's office April 10, 1865, with general prostration and hepatic disease, the result of long and close confinement in rebel prison, and was furloughed twenty days.

He filed a claim August 4, 1896, under the general law, based on general debility from starvation, resulting in nervous prostration varying from exaltation with insomnia to melancholia and somnolent torpor, with oxalaria and anæmia, with at times chronic bronchitis. A medical examination was ordered August 29, 1896, was made October 19, 1896, as certified by the Secretary of the second board at Pittsburg, Pa., but the report of the board has never reached the case. The papers were sent to the Pension Office April 9, 1898, and a search was made for the report but it could not be found, nor did the records of the board show that he had ever been examined.

Since ordering that examination no action has ever been taken by the Pension Office, no call for evidence has ever been made. The office appears to have been waiting for the report of that board ever since. Soldier's condition from discharge to 1882 is not shown, except by the

testimony of the claimant himself; but his condition since 1882 is shown to have been exactly what would be expected, and the natural result of his condition at discharge, which is shown by the record to have been one of general or nervous debility resulting from hardship, starvation, and sickness in rebel prisons, and his description of his condition for the intervening time fits in perfectly with the record and the evidence.

His present condition and the extent of his disability from results of nervous debility are not so well shown as they ought to be, and it is well to pension this soldier for the results of his prison life, including the nervous debility or disease of nervous system and all results thereof, subject to the provisions and limitations of the pension laws, and let the Pension Office have him examined and fix a higher rate if warranted. They could not give him less than \$30 per month, and if his disability progressed to a \$50 or \$72 degree (as it almost certainly will) his pension may be increased at the Pension Office. The justification for action by Congress is the fact that for nineteen months the Pension Office has not only made no progress in the case, but has actually done nothing in it.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 5, after the word "laws," insert the words "as to increase of pension only."

In line 7, after the word "pension," insert the words "at the rate," and after the word "of" strike out the word "fifty" and insert in lieu thereof the word "thirty."

STATE OF IOWA, *County of Scott*, ss:

In the pension claim of A. C. Litchfield, personally came before me, a clerk of district court, in and for the aforesaid county and State, Wm. D. Middleton, a citizen of Davenport, Iowa, whose post-office address is 107 East Third street, Davenport, well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about (?) years, and that he did not know him prior to enlistment, nor during his army service, and that the only knowledge he has of the applicant's condition was furnished at a consultation in his case with Dr. J. P. Crawford, of Davenport, in the fall of 1886.

At that time, from his observation of the applicant, and from items of his history furnished by him and his attending physician, Dr. Crawford, he was of the opinion that the applicant was neurasthenic and morbid, with a basis for this nervous condition in impaired digestion and nutrition generally.

Further, he knows nothing of his treatment or condition as regards manual labor.

He further declares that he has been a practitioner of medicine for twenty-nine years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

WM. D. MIDDLETON, M. D.,
Private Company I, Forty-fourth Iowa Infantry.

Sworn to and subscribed before me this 15th day of February, A. D. 1898; and I hereby certify that the affiant is a practicing physician in good professional standing, that the contents of the above declaration, etc., were fully made known to him before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

J. F. CHEEK,
Clerk of the District Court.

STATE OF IOWA, *County of Scott*, ss:

In the pension claim of A. C. Litchfield, J. P. Crawford declares as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about fifteen years, and that he did not know claimant prior to 1882.

That he knew him from 1882 to 1887 intimately; that he was claimant's physician most of the time during these years; that he treated him during the fall of 1886 and winter and spring of 1887 for neurasthenia; that claimant's general physical condition was run down; that he was scarcely able to attend to his duties, and was finally compelled to abandon his work entirely; that all mental and physical work was performed with great effort; that on this account his ordinary pleasant duties became drudgery; that he suffered with constant insomnia; that claimant was dejected in spirits and very melancholy; that the microscope exhibited oxalic acid crystals in urine; that affiant treated claimant's disease with sedatives and tonics; that claimant's condition became so aggravated during 1887 that he became entirely disabled, both mentally and physically, for the performance of manual labor.

J. P. CRAWFORD, M. D.,

President of United States Pension Board at Davenport, Iowa.

DAVENPORT, IOWA, *January 15, 1898.*

MEMORANDA.

Captured while in command of my regiment, the Seventh Michigan Cavalry, on what is known as the Kilpatrick-Dahlgren raid on Richmond, March 1, 1864, near Atlers Station, about 6 miles from Richmond. Capt. John A. Clark of my regiment was also captured at the same time, and four other officers who were with the troops commanded by Colonel Dahlgren were captured two days later. By orders from the Confederate war department we (six officers) were thrust into a dungeon in the cellar of Libby Prison. With us were confined four negro soldiers captured from General Butler's command—ten of us in one dungeon measuring about 7 feet by 11 feet. The only sanitary arrangement was an open tub in one corner, emptied once a day. We remained in this dungeon a week or more till a room was partitioned off from the center room on the first floor of the prison proper, where we were in close confinement for four and one-half months. Four officers of negro troops were confined with us. The last six weeks of our confinement in this room (which was subsequent to the removal of the other officers who had been confined in "Libby" to Macon, Ga.) we were fed on *one-third of a prison ration*. This part of our confinement was attended with the suffering and illness usually resulting from a continued course of starvation rations. Until toward the end of this time none of our number were allowed to go to the hospital, but what treatment we received was administered in that room.

One of the colored soldiers went through a course of measles there, and Captain Clarke was very sick and would doubtless have died there but for a change in prison surgeon, the new surgeon expressing the greatest surprise that the very sick were allowed to remain with us. His question to the prison police who attended him on his first (and only) visit was, "Why are not these men in hospital?" I became much reduced, and was seriously troubled with what I called indigestion and general debility. I was removed to hospital for about two weeks, where I improved sufficiently to be returned to our close quarters. Our condition became so desperate that I wrote to Major Turner concerning the prison, stating that we had been in close confinement for four and a half months, receiving the treatment of felons. No charges having been preferred against us, we thought we had a right to know why we did not receive the treatment usually accorded to officers prisoners of war. To this letter I received no reply, and at the end of a week I wrote a second note to Major Turner asking an interview, which was promptly granted. He acknowledged having received my former note, and said reply was delayed because he could not answer my question; that he had forwarded my communication to General Winder and had subsequently met his adjutant-general, and he informed him (Major Turner) that they could not answer it and had forwarded it to the War Department. Major Turner further said that when he heard from it he would let me know.

Two days subsequent to this interview, on the 15th day of July, we were removed from Libby Prison to Macon, Ga., put with other officers (prisoners of war), and thereafter received the same treatment and rations that they did. Early in our Libby confinement Dr. Kingston, assistant surgeon Second New York Cavalry, contracted disease and was exchanged—since died, decease no doubt hastened by reason of his exposure and resultant illness while in prison. Colonel Cook died shortly after the war while serving as secretary of legation at Santiago, Chile. Captain Beatty and Captain Clark, who drew pensions on account of disease undoubtedly contracted in Libby, have died during the past two years, and I have heard that Lieutenant Merritt was also dead. If this is the case, I am the only survivor of the six officers who were captured on that raid and subjected to the special treatment referred to. The officers were transferred from Macon to Charleston, S. C., where we

were in August confined in the jail yard under the burning southern sun within brick walls which effectually shut out the breezes which might otherwise have made our condition more tolerable.

From the jail yard we were transferred to the negro workhouse and subsequently to Roper Hospital building, where, having the freedom of the grounds within the open fence inclosure, our condition was far more comfortable until our removal (about the end of September, I think) to Columbia, S. C. Here an attempt was made to extort from us a parole that we would not attempt to escape, upon the promise that a delightful camp and good rations would be furnished. We declined to give any such promise and were put into an open field without any shelter other than what we could provide ourselves—1,600 men, with the use of two axes only, at first, with which we were also obliged to cut the wood used for cooking our rations. About the 1st of January, 1865, after we had succeeded in making ourselves fairly comfortable, we were transferred to a portion of the grounds within the walls which inclosed the insane asylum at Columbia. There again, in January and February, we were without shelter, for the most part, till we were paroled for exchange on the 1st of March, 1865. For about five months at Columbia no ration of meat of any kind was served to the prisoners. What seemed to be simple indigestion at first was accompanied with irritability and a lack of nervous force or vitality after my release, and I found that my endurance was nothing like what it had been prior to my prison life.

While with my regiment and before my capture the regiment never went out of camp but I was with it, and I was never wholly off duty for a single day. I found that while I remained out of doors, with comparatively light employment, I was in fair physical condition, but confinement or over exercise or excitement brought on a sickness at the stomach, and this became more frequent and was accompanied with what I called a condition of torpor (stupid, dull feeling), from which I suffered continuously (with only partial relief at times) from 1873 to 1879. In 1881 I undertook to superintend a large sawmill in Davenport, Iowa, and at first it seemed to agree with me, but before the season was over I would fall asleep standing in the midst of the noisy machinery. This condition continued, accompanied with insomnia, after I left the lumber business in 1883. Kind friends secured for me the position of superintendent of the Soldiers' Orphans' Home at Davenport, Iowa, but, agreeable as the work was in many respects, it was not favorable to my condition.

Insomnia increased in spite of all I could do. My physician recommended consultation with an expert on nervous diseases, which was held. I was encouraged to believe I would be "all right" if I could have a good long rest. After trying many remedies I was obliged before the end of a year to tender my resignation. I removed to northern Michigan for my health October, 1887, and have not since been actively engaged in business of any kind excepting for a few months, which resulted in a return of the worst features of my former troubles, which continued in this aggravated form from 1891 to the fall of 1894, when I came to Pittsburg. Since the spring of 1895 I have been residing at Hulton, about 12 miles from Pittsburg on the Allegheny River. A little gardening, horseback riding, and the agreeable recreations of country life without anxious cares have improved my physical condition a great deal. But I find I must heed the warnings of the doctor to take plenty of rest, be careful of my diet, and avoid continuous mental or physical exertion.

A. C. LITCHFIELD.



CHARLES MILLER, ALIAS CHARLES LEE.

APRIL 16, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 4607.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4607), granting an honorable discharge to Charles Miller, alias Charles Lee, having considered the same, respectfully report the same back to the House with the following amendment:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

And that the bill when so amended do pass.

The reason upon which the committee depend for its action is based upon the fact that this soldier enlisted in Company I, Tenth Ohio Infantry Volunteers, October 8, 1862, and served faithfully until April 20, 1863, when he was charged upon the records with having deserted. He again enlisted under the name of Charles Lee, August 21, 1863, in Company G, One hundred and fourth New York Volunteer Infantry, and served faithfully in such organization until July 17, 1865, when he was honorably discharged with his company. Had he been charged with desertion one day later, or had he enlisted one day earlier, he could have been relieved under the general law.

It further appears that the time he was in hospital sick was not credited to him, and if it had been he would be entitled to relief under the general law.

Your committee think he should have such credit and that he should have the relief prayed for, especially as he served faithfully and bravely for two years under his last enlistment.

The report of the Secretary of War and the soldier's statement are herewith submitted.

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, October 28, 1897.

SIR: Referring to your letter of the 26th instant, received to-day, in which you request that a statement of the military record of Charles G. Miller, late a member of Company I, Tenth Ohio Infantry Volunteers, and also of Company G, One hundred and fourth New York Infantry Volunteers, be furnished you, I am directed by

the Secretary of War to inform you that the records show that Charles Miller was enrolled October 8, 1862, and mustered into the service January 15, 1863, as a private in Company I, Tenth Ohio Cavalry Volunteers, to serve three years. He appears to have served faithfully while a member of said organization until April 20, 1863, when he deserted.

He never thereafter returned to that organization, but enlisted August 21, 1863, under the name of Charles Lee, in Company G, One hundred and fourth New York Infantry Volunteers (in violation of the twenty-second, now fiftieth article of war), to serve three years. He was mustered into service on the same day, and appears to have served faithfully until July 17, 1865, when he was honorably mustered out with his command, as a corporal.

The application for removal of the charge of desertion and for an honorable discharge in the case of this soldier has been repeatedly denied by this Department, and now stands denied on the ground that, as more than four months intervened between the date of his desertion from Company I, Tenth Ohio Cavalry Volunteers, and the date of his enlistment in Company G, One hundred and fourth New York Infantry Volunteers, the case does not come within any of the provisions of the act of Congress approved March 2, 1889, which is the only law now in force governing the subject of removal of charges of desertion.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

Hon. R. P. BISHOP, M. C.,
Ludington, Mich.

STATE OF MICHIGAN, *County of Wexford, ss:*

In the pension claim of Charles G. Miller, alias Charles Lee, late corporal in Company G, One hundred and fourth Regiment of New York Infantry Volunteers, personally appeared before me, a notary public in and for the county and State aforesaid, Charles G. Miller, alias Charles Lee, aged 59 years, a resident of the city of Cadillac, county of Wexford and State of Michigan, who, being duly sworn, declares in relation to the above claim as follows:

While on detached service near Louisville, Ky., I was sick and went with Samuel Keneir and William Condo to Louisville, Ky.; from there we went to Cincinnati, Ohio, where I was taken down with the typhoid fever and became unconscious. Henry Cigle, of Cincinnati, with whom I was stopping, telegraphed to my uncle, Henry Lee, who came to Cincinnati and took me home with him to Canandaigua, N. Y., where I remained sick for six or eight weeks. When I got well I feared to return to my command, thinking if I returned I would be severely punished, so, acting on the advice of my uncle, I reenlisted under an assumed name (Charles Lee) at Canandaigua, N. Y. I never at any time had any intention to desert the service of the United States.

The above and foregoing was written by David A. Rice, of Cadillac, Mich., in my presence, as dictated by me, and in dictating the same I was not aided or prompted by any written or printed memoranda or verbal recital from any person or persons.

CHARLES G. MILLER.

Sworn to and subscribed before me on this 3d day of November, 1897, by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before executing the same, and I further certify that I am in no wise interested in said case, nor am I concerned in its prosecution.

[SEAL.]

DAVID A. RICE, *Notary Public.*

CADILLAC, MICH., *December 14, 1897.*

DEAR SIR: Yours of the 10th on hand. As far as me giving any evidence of my case is utterly impossible, except if I can find those two comrades, Sam Conier and William Condo, as I have lived in Michigan ever since 1867, and I have never seen or heard of any of my friends since the war; the only one I have now is the Lord God; but it seems very strange to me that it should be the 20th of April; it occurs to me that we were after John Morgan in Tennessee. We belonged to Stanley's division. I hope you will be successful in getting me a removal, as I need a pension very much. There must be some mistake in the war record, for it is impossible that it should be the 20th of April. I can furnish lots of evidence of my present suffering from the service here.

Yours,

C. G. MILLER,
P. O. Box 972.

CADILLAC, MICH., *October 24, 1897.*R. P. BISHOP,
Ludington, Mich.

MY DEAR COMRADE: Yours of the 23d at hand. Please excuse me for making that mistake.

I will try and state the date as near as I can remember. I enlisted in the Tenth Ohio, Company I, the 8th day of October, 1862; left that regiment in 1863. I do not remember the day of the month, but I am positive it was some time in May. I then enlisted in Company G, One hundred and fourth New York, the 21st day of August, 1863, and served till the 17th day of July, 1865. I have my discharge from the Company G, One hundred and fourth New York; that is as near as I can state; my papers are all in the Pension Department. If I had known what I know to-day, I should have surely got my discharge from the Company I, Tenth Ohio Cavalry, but was young and careless, and did not think that I should ever apply to the Government for aid.

Yours, respectfully,

Mr. C. G. MILLER,
P. O. Box 972.

(My claim for pension, No. 750301.)

CADILLAC, MICH., *November 9, 1897.*

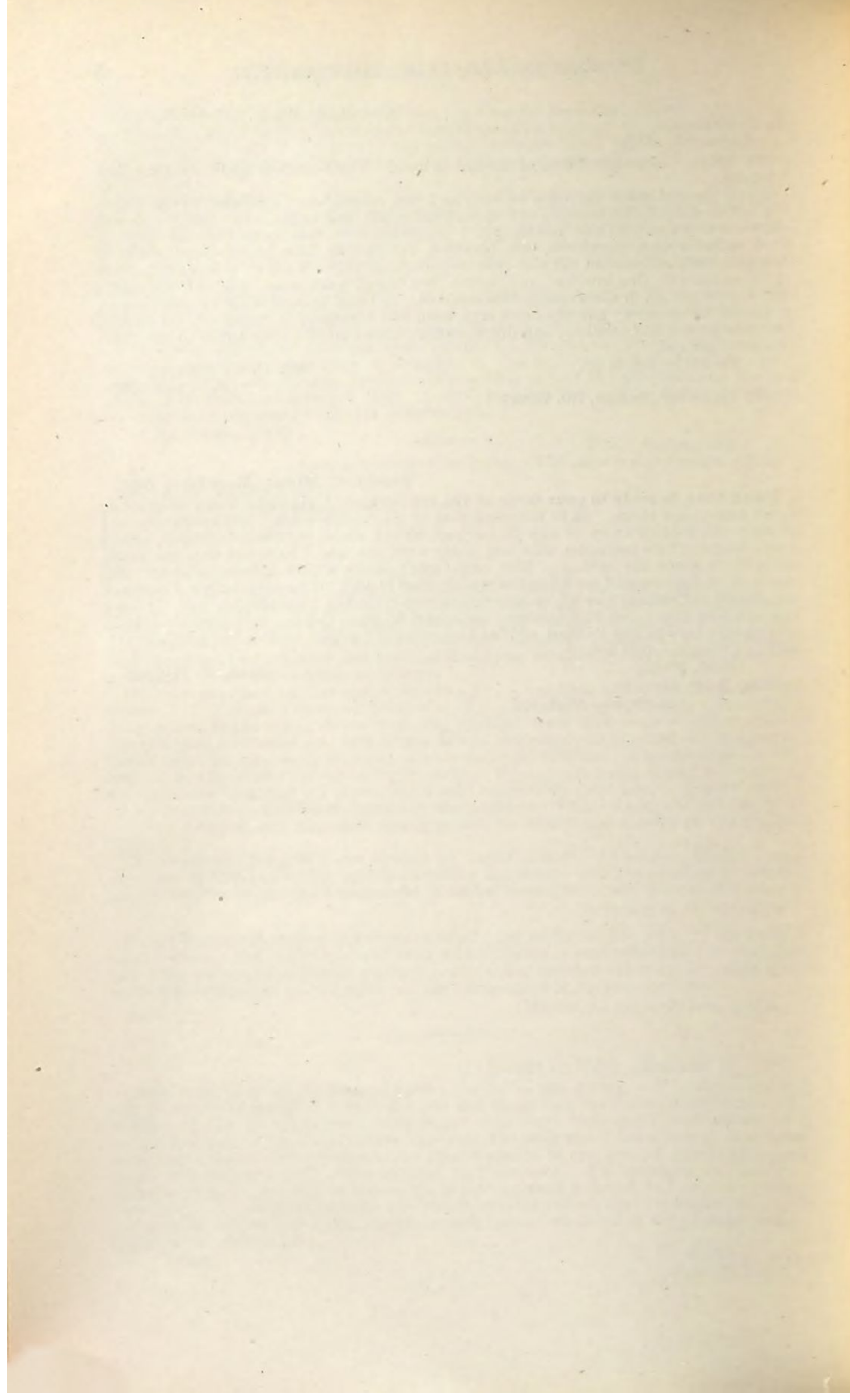
DEAR SIR: In reply to your favor of the 4th instant, I gave the dates as exact as I can remember them. As to the condition of my health when I left Louisville and Cincinnati, I don't know of any person now living whose evidence I can get, unless I can find the two comrades who left there with me, and I have not seen nor heard from them since the spring of 1866, and I don't know where to look for them. My uncle, who took care of me when I was sick, died in 1872. The only bounty I received on second enlistment was \$25 on enlistment and \$75 when I was discharged. If there is some way that I can find Samuel Canier and William Condo—it is possible that in some way through the Pension or War Department I might be able to find these two men, if they are still living.

Yours, truly,

CHAS. G. MILLER.

Hon. R. P. BISHOP,
Ludington, Mich.

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BUILDING FOR RELIGIOUS WORSHIP ON WEST POINT
MILITARY RESERVATION.

APRIL 16, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. MAHANY, from the Committee on Military Affairs, submitted the
following

REPORT.

[To accompany H. R. 6149.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6149) to authorize the Secretary of War to exercise a discretion in certain cases, have had the measure under consideration, and respectfully report thereon as follows:

The purpose of the original bill was to empower the Secretary of War, in his discretion, to authorize the erection of a building for religious worship of any denomination, sect, or religion on any military reservation of the United States. The committee find that prior to the rendition by the Attorney-General of a recent opinion concerning the right and power of the Secretary of War, without specific legislation, to grant such permits, it had been the custom of the War Department to do so, and in many cases this authority was exercised. However, when the question was submitted to the Attorney-General his decision was adverse to the exclusive jurisdiction of the Secretary of War in the matter of these permits, and thereby rendered further legislation necessary.

The investigation made by the committee in reference to the propriety and advisability of enacting such legislation developed, so far, at least, as the West Point Military Reservation is concerned, the advisability of conferring on the War Department the necessary power to authorize a structure of the character described, because, inasmuch as that reservation is set aside for the military school of the nation, where cadets are educated not only in the art of war, but trained to the responsibilities of command, your committee believe it to be in line with wisdom and public policy that, as a part of such training, the cadets should be afforded an opportunity for religious instruction.

In respect of this matter, the military reservation at West Point is an exception to all the other 79 military reservations of the United States—

First, in the fact that it is remote from every city or even from any

town or village of considerable size, and hence church facilities are extremely limited.

Secondly, the West Point Reservation is, of all our military reservations, the least likely to be changed in location or altered as to its general purpose. In other words, its conditions are, so far as human foresight can estimate, fixed, and therefore the erection of a place of worship is not at all likely to interfere with either the present or prospective military uses of the reservation. Even this remote contingency is carefully covered by the provisions of the proposed legislation.

In view of these considerations, the committee have deemed it proper to submit an amendment in the nature of a substitute, which is as follows:

Strike out all after the enacting clause and insert the following:

That the Secretary of War, in his discretion, may authorize the erection of a building for religious worship by any denomination, sect, or religion on the West Point Military Reservation: *Provided*, That the erection of such building will not interfere with the uses of said reservation for military purposes. Said building shall be erected without any expense whatever to the Government of the United States, and shall be removed from the reservation or its location changed, by the denomination, sect, or religious body erecting the same, whenever, in the opinion of the Secretary of War, public or military necessity shall require it, and without compensation for such building or any other expense whatever to the Government.

This amendment limits the scope of the original bill to the West Point Military Reservation instead of extending the legislation to cover all the reservations, the committee believing it wise that each reservation should make its request to Congress as its necessities in this respect may arise.

The committee therefore recommend the adoption of this amendment, and that when so amended the bill do pass.



PARLIAMENTARY PRECEDENTS OF THE HOUSE OF
REPRESENTATIVES.

APRIL 16, 1898.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the
following

REPORT.

[To accompany H. Res. No. 227.]

The Committee on Printing have considered the resolution (H. Res. No. 227) providing for the compilation and printing of parliamentary precedents of the House of Representatives, and report the same to the House of Representatives with the recommendation that it do pass with an amendment, as follows:

After the word "work," in line 11, page 1, add the following words, "with a proper index."

This compilation has been made by Asher C. Hinds, the present clerk at the Speaker's table.

The estimated cost of printing and binding this document is \$3,091.

The compilation was begun prior to the Fifty-fourth Congress for the purpose of facilitating the parliamentary work of the clerk at the Speaker's table by having in a classified and convenient form the rulings of the Speakers and the chairmen of the committees of the whole. Scattered as they are through scores of volumes of Records, Globes, and Journals, it is a matter of considerable trouble to get together the precedents bearing upon any particular point, especially if they are required during the transaction of the business of the House. It is the aim of the work to present each precedent in the light of the rules which governed the House at the time it was made, and for the statements of all the earlier precedents the Journals and the records of the debates have been compared. As much of the compilation as is completed has been in daily use in the House and has been enlarged, corrected, and verified by the investigations that have gone on from time to time in regard to points of order arising in the House and in the committee of the whole.

It will be the aim of the work, when completed, to include all the precedents in use under the practice of the House. The collection at present amounts to 1,200 or 1,300. Before it is completed for publication it will probably amount to more than 1,600. It is impossible to

2 PARLIAMENTARY PRECEDENTS, HOUSE OF REPRESENTATIVES.

give the number exactly, as about fifty years of the earlier history of the House have not been fully examined. The work will include precedents from the First Congress to and including the present session (second) of the Fifty-fifth. It is not expected that the work will contain all the precedents of the House, many of which are obsolete, but such as are in use and such as have been collected in the investigation of questions before the House. The rulings of the Speakers for the last eight years have been collected and classified with particular care. The rulings of chairmen of committees of the whole, not heretofore collected and classified in large numbers, quite fully cover the principles involved in the proceedings of these committees.

The index of the work will aim to meet the wants of Members examining particular as well as general features of the parliamentary practice of the House.



AFFAIRS IN CUBA.

APRIL 16, 1898.—Ordered to be printed.

Mr. PERKINS, from the Committee on Printing, submitted the following

REPORT.

[To accompany Senate Con. Res. No. 33.]

Your Committee on Printing, having had under consideration Senate concurrent resolution No. 33, to print 20,000 copies of the message of the President of April 11, 1898, together with Senate Report 885, being the report of the Committee on Foreign Relations relative to affairs in Cuba, recommend that the same be agreed to.

The Public Printer estimates the cost of printing under this resolution at \$6,165.



INVALID AID SOCIETY, OF BOSTON, MASS.

APRIL 18, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. KLEBERG, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany S. 4190.]

The Committee on the Public Lands, to whom was referred the bill (S. 4190) authorizing the Secretary of the Interior to issue a permit to the Invalid Aid Society, of Boston, Mass., to occupy and use 160 acres of land, being part of the abandoned Fort Stanton Military Reservation, in New Mexico, for the purpose of a national sanitarium for the treatment of pulmonary diseases, having had the same under consideration, beg leave to report the same to the House with the recommendation that it do pass.

The improvements which it is designed by the bill to give, under certain restrictions, to the American Invalid Aid Society, consisting of buildings and all valuable trees and grass plats, are situated in such a desert region that it requires not only care, but expenditure of money to preserve, and are rapidly going to ruin. The trees and grass are dying for lack of water, which the military authorities, since Fort Stanton was occupied, kept up, so that in a few years it would become simply a part of the desert unless an appropriation could be made by Congress to preserve it. The bill, which is hereby favorably reported, has received the indorsement of the Interior Department, and the Delegate from the Territory of New Mexico requests its passage because it will be beneficial to the Territory to have it, and an extensive advertisement that New Mexico is valuable, because of its dry climate, as a place for a sanitarium for consumptives.

ASSAY OFFICE, SEATTLE, WASH.

APRIL 18, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SOUTHARD, from the Committee on Coinage, Weights, and Measures, submitted the following

REPORT.

[To accompany S. 3145.]

The Committee on Coinage, Weights, and Measures, to whom was referred the bill (S. 3145) to establish an assay office at Seattle, Wash., respectfully submit the following report:

At the time the above-mentioned bill was referred to your committee there were pending before it two separate bills, one (H. R. 3394) for the establishment of an assay office at Seattle and the other (H. R. 5534) to establish a similar office at Portland, Oreg.

In answer to a communication to the honorable Secretary of the Treasury requesting the views of the Department "as to the wisdom and propriety of the bill and the necessity of an assay office at Seattle, Washington," under date of January 15, 1898, he says:

The gold product of Alaska—United States territory—for 1897 is estimated to have been \$2,500,000 and the amount brought out by miners from the Klondike district—British territory—at \$2,500,000, nearly all of which was deposited at the mints and assay offices of the United States. A large amount of the gold coming from the Klondike during the year was brought by steamer to Seattle and from there shipped to San Francisco and to the assay office at Helena, Mont.

It is undoubtedly true that if an assay office were established at Seattle or some convenient point in the same section the greater part of the gold coming from Alaska would be deposited thereat.

In addition to any gold that might be expected to come from the sources above mentioned, much of the gold produced in Oregon and Washington would also be deposited there.

I would remark that there is no mint or assay office in the Dominion of Canada for the receipt and payment to depositors of the value of gold bullion, therefore all gold bullion produced in that country naturally comes to the mints and assay offices of the United States. From information received, there is every reason to believe that for years to come a very large amount of gold will be produced in Alaska, and all proper efforts should be made to bring this gold, whether produced in our own or Canadian territory, to our mints.

And in reply to a request that the committee be favored with the views of the Department with reference to the establishment of an assay office at Portland, Oreg., under date of February 7, 1898, he further says:

The gold product of Oregon for 1896 is estimated to have been \$1,251,000, and for 1897, \$1,400,000; the product for the adjacent State of Washington was, in 1896, estimated to have been \$406,000, and for 1897, \$500,000.

The product of Alaska proper for 1897 is estimated to have been \$2,500,000, and the amount brought out by miners from the Klondike, British Territory, at \$2,500,000, most of which was deposited at the mints and assay offices of the United States.

If an assay office were established at Portland, Seattle, or some other convenient point in the same section, much of the gold produced in Alaska and the Northwestern Territory would be deposited thereat. There is neither a mint nor a government assay office in the Dominion of Canada; therefore the greater part of the gold produced in that country naturally comes to the mints and assay offices of the United States. It may be proper to remark here that the establishment of an assay office at either Portland, in the State of Oregon, or Seattle, in the State of Washington, would be all that would be required on the Pacific coast. The information received leads to the belief that for years to come a very large amount of gold will be produced in the sections above mentioned, and efforts should be made to have the same, whether produced in our own or Canadian territory, come to the mints of the United States.

For some reason the estimated production of gold in the States of Oregon and Washington, as stated by the Department, is much less than that obtained from other sources. The estimates from all other sources have placed the production of Washington far above that contained in the letter from the honorable Secretary of the Treasury, with prospects for a large increase in 1898, and those who have urged the location of an assay office at the city of Portland, Oreg., call attention to the recent discoveries of gold and the great activity in the mining industry of that State, and insist that the gold production of the State of Oregon for the coming year can not fall short of six or seven million dollars.

While the estimates relative to the production of gold in Alaska and the Klondike must of necessity be largely speculative, very large yields are confidently expected. In the report of a committee appointed by a mass meeting of the citizens of Juneau on the 10th day of February last to prepare statistics and other data showing the advantages of that city for the location of a United States assay office it is said that a conservative estimate of the present bullion output of Juneau is \$3,000,000, this being produced from 650 stamps.

Contracts have been let and assurances received that within twelve months the number of stamps in operation in and tributary to Juneau will exceed 1,100, which will make Juneau's bullion output exceed the sum of \$5,000,000 per annum.

The committee further state that they are credibly informed that there is now on hand in Dawson City \$7,500,000 in gold, to which will be added by this spring's clean up another \$7,500,000.

The gold fields of Alaska are much greater in extent and doubtless quite as rich as those of the northwest British territory, and a constantly increased production can reasonably be expected, all or most of which will ultimately come to the United States by way of Seattle, Portland, San Francisco, and other cities on our Western coast.

The purpose of an assay office as contemplated by law is—

The receipt of gold and silver bullion for melting and assaying, to be returned to depositors of the same in bars with the weight and fineness stamped thereon.

Under section 3545 of the Revised Statutes—

For the purpose of enabling the mints and assay offices to make returns to depositors with as little delay as possible it shall be the duty of the Secretary to keep in

such mints and assay offices, when the state of the Treasury will admit thereof, such an amount of public money, or bullion procured for the purpose, as he shall judge convenient and necessary, out of which those who bring bullion to said mints and assay offices may be paid the value thereof, in coin or bars, as soon as practicable after the value has been ascertained. On payment thereof being made the bullion so deposited shall become the property of the United States.

The principal object in the establishment of an assay office is the benefit and encouragement of the miner and producer of gold and silver. Here the precious metals are parted from baser materials, rendered more convenient for handling, their weight and fineness determined and stamped thereon by the highest authority. The miner, often poor and of little education, is thus assured of their value and protected against all possible imposition from every source. The Government makes a very small charge for assaying, but its receipts from this source usually pay a very small proportion of the expense of running an assay office.

The Government, however, receives an indirect benefit in having the precious metal, wherever produced, stamped and marked as a product of its own, and the locality of the mint is especially benefited by the attraction of trade and business as a result of the increased facilities offered to the producers of gold and silver to dispose of the same.

Seattle is a flourishing seaport city, located on an arm of Puget Sound, with an estimated population of 60,000 or 70,000, the largest city on the Pacific northwest coast. It is the center of a large and increasing coastwise and foreign as well as domestic commerce, and is the distributing point for a large and growing mining industry. It has great transportation facilities by land and water. It has two direct transcontinental railway lines and is also reached by the Canadian Pacific and Union Pacific over leased lines. At Seattle there are two lines of express service reaching directly or by connections all important business points of the country. The Seattle Intelligencer of February 24, 1898, gives a list of 34 companies operating in all 86 vessels between Seattle, Alaska, and intermediate points. On February 21, 1898, it is authoritatively stated that 23 vessels were loading at Seattle for Alaskan ports and on the same day 5 arrived at that place on their return trip.

The water transportation of Seattle is not by any means confined to the northern trade, but extends in every direction. Your committee has been furnished with a large list of vessels in addition to the above, which will increase Seattle's Alaskan fleet later in the season.

Seattle is said to have engaged first in the business of furnishing and outfitting miners for the Alaskan and Klondike regions, and she still furnishes and will continue to furnish a very large proportion of all the supplies and equipment of those who are now going or will go there in the future.

From all the information obtainable your committee has been led to believe that more people going to and returning from the Alaskan and Klondike gold fields travel by way of Seattle than by any other route, and the movement of mine products will as a rule be by the route which those who have dug it take in going and coming.

Of the gold produced in Alaska and the Klondike from placer deposits, at least 75 or 80 per cent is said to come down the Yukon River in steamers, a very large proportion of which is landed at Seattle; but whether coming by water via the Yukon River, or by any of what are known as the overland passageways, Seattle for some time at least, and probably always, will continue to be the great receiving depot

for Alaskan and British American gold, provided an assay office shall be established at that point.

Should the United States fail to establish an assay office at Seattle or at some place which will meet the convenience of the mining people of Alaska and the Klondike, the Canadian government can easily secure much, if not practically all, of this business by the establishment of a Canadian office at Victoria or some other suitable place. Such a location would serve the needs of the new gold country better than San Francisco or Helena, each of which is nearly 1,000 miles away.

Your committee therefore recommend that the bill do pass.

C

JAMES McKENZIE.

APRIL 18, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELKNAP, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 3804.]

The Committee on Military Affairs, having had under consideration the bill (H. R. 3804) for the relief of James McKenzie, would respectfully report the same back to the House with the recommendation that the bill do pass, with the following amendment:

Add after the word "sixty-five," in line 7 of the bill, the following:

Provided, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The committee find the facts in this case to be as follows:

The soldier enlisted on November 8, 1864, in Company A, Third Battalion, Eleventh United States Infantry; he was subsequently transferred to Company B, First Battalion of the same regiment; the records show him to have deserted on August 26, 1865, and that he never returned to his command. On March 6, 1866, he again enlisted in Company F, Third Battalion, Twelfth United States Infantry, serving honorably until March 6, 1869, when he was discharged by reason of expiration of term of enlistment. On September 11, 1883, the War Department furnished the soldier a discharge to date from August 26, 1865. While this discharge was not in terms a dishonorable discharge the Commissioner of Pensions in his ruling has decided that it is a discharge without honor.

The soldier states in his behalf that in August, 1865, he received a letter from his father stating that he (his father) was at the point of death and wanted to see the soldier before he died. The soldier states that his captain gave him a leave to go home for fifteen days. During this leave he was taken sick and unable to leave home for six months. He wrote to his captain to this effect, but received no answer.

In the spring of 1866, when he again became able for military duty, he went to New York City and reported to the recruiting officer that he was a member of the Eleventh Infantry, and asked the recruiting officer to notify the captain of his company in the Eleventh that it was his intention to enlist in the Twelfth United States Infantry, and he did so enlist, supposing the record would be properly made and it would be satisfactory.

Your committee, after a careful consideration of this case, are of the opinion that the soldier left his command with no intention of deserting, and that he voluntarily returned with the intention of going back into the Army without knowing that he was doing wrong by enlisting in another regiment instead of going back to his proper regiment.

FEES OF REGISTERS AND RECEIVERS.

APRIL 19, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. SHAFROTH, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 9863.]

The Committee on the Public Lands, to whom was referred House bill 9863, has had the same under consideration and recommend the passage of the same with the following amendment:

Add after the word "repealed," in the fifth line, the following:

Provided, That nothing in this act shall affect the fees to be charged by registers and receivers of land offices in Alaska.

Subdivision 12 of section 2238 of the Revised Statutes of the United States, which this bill seeks to repeal, is as follows:

12. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana are each entitled to collect and receive fifty per centum of the fees and commissions provided for in the first, third, and tenth subdivisions of this section.

Subdivisions 1, 3, and 10 of section 2238 are as follows:

First. A fee of one dollar for each declaratory statement filed, and for services in acting on preemption claims.

Third. A commission to be paid by the homestead applicant at the time of entry of one per centum, and the cash price as fixed by law of the land applied for, and a like commission when the claim is finally established and the certificate therefor issued as the basis of a patent.

Subdivision 12 was enacted in the year 1864, when the cost of living in the States and Territories named therein was very high, all of them being at that time remote from railroads.

Now the cost of living is no higher there than in the other States of the Union, and hence it is no longer necessary or equitable that higher fees should be paid in those States and Territories. These fees as a rule must be paid by men who are endeavoring to build homes and are mostly least able to bear increased burdens. In cases of contest it makes the total sum to be paid by the litigant often very oppressive, and sometimes amounts to as much as the land is worth.

Your committee therefore recommend the passage of the bill with the amendment indicated.

FEES OF REGISTERS AND RECEIVERS.

APRIL 19, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. SHAFROTH, from the Committee on the Public Lands, submitted
the following

REPORT.

[To accompany H. R. 9862.]

The Committee on the Public Lands, to whom was referred House bill 9862, has had the same under consideration and recommend the passage of the same.

The bill is intended to reduce the fees which registers and receivers are allowed for testimony reduced by them to writing in all cases from 15 cents to 10 cents per 100 words. The people who are compelled to pay these fees are the homesteaders upon the public domain. They are generally in very poor circumstances and unable to pay large costs. In cases of contest it sometimes happens that the fees for taking testimony amounts to almost as much as the land is worth, and consequently works a great hardship upon them.

The fee of 10 cents per 100 words is a good compensation for the services rendered, and consequently is fair to all parties.

A bill similar to this one was passed by the Fifty-fourth Congress, but was vetoed by President Cleveland on the ground that the bill provided that the register and receiver should charge at a rate of not exceeding 10 cents per 100 words, and if they could secure a competent person to do the work for a less sum they must do so. The present bill eliminates that feature and fixes a sum certain for the service.

For these reasons your committee recommend that the bill do pass.

JERONEMUS S. UNDERHILL.

APRIL 19, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 9454.]

The Committee on War Claims, to whom was referred the bill (H. R. 9454) for the relief of Jeronemus S. Underhill, submit the following report:

This bill provides for the adjudication by the Court of Claims of the claim of Jeronemus S. Underhill for further compensation for the construction of the river and harbor monitor *Modoc* during the late war.

In 1864 the price of labor and material constantly advanced, a state of facts that could not have been contemplated or in any way guarded against by the contractor at the time of making the contract. The work was delayed some two and a half years on account of the great change in the plans and specifications. During all this delay the price of labor and material was constantly advancing. The Navy and Army required men in the mechanical departments as well as on the sea and on the field of battle. The contractor used every effort in his power to complete the work, and urged to haste with all the energy at his command.

The claimant lost a large sum of money on account of the acts of the Government.

If the claimant has a just claim it ought to be paid, and there is no reason why the proper facilities should not be afforded him to establish its validity.

The committee therefore recommend the passage of the bill.

FORT DODGE MILITARY RESERVATION.

APRIL 19, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ELLIS, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 6087.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 6087) granting to the State of Kansas the abandoned Fort Dodge Military Reservation in said State as an addition to and for the use of the State Soldiers' Home, have carefully considered the same and respectfully submit the following report:

The bill grants the land to the State of Kansas as an addition to the State Soldiers' Home. There are 1,882.93 acres in this reservation. There are no public buildings on the land. It is situated in the western portion of the State and is not suitable for agricultural purposes.

The reservation has been abandoned for some years, and by Executive order of January 12, 1885, it was turned over to the Interior Department for disposal under the act of July 5, 1884. The Interior Department has decided that the land can not be disposed of under the act of August 23, 1894, as it contains less than 5,000 acres. It must be disposed of at public sale, after due advertisement, to the highest bidder for cash, at not less than the appraised value, as provided for by the second section of the act of July 5, 1884, unless Congress makes some other disposition of it.

The State must accept the donation within five years, and whenever the land shall cease to be used by the State for the purposes designated the same shall revert to the United States.

The soldiers now in the Home need the use of this land for the purpose of pasturing horses and cattle which they keep for their personal use, and, in the opinion of your committee, the land mentioned in this bill should be disposed of in the manner therein provided, and therefore recommend that the bill (H. R. 6087) do pass without amendment.

Neither the Secretary of the Interior nor the Commissioner of the General Land Office have any objection to the passage of the bill, as appears from their letters hereto attached and made a part of this report.

DEPARTMENT OF THE INTERIOR,
Washington, March 1, 1898.

SIR: I have the honor to transmit herewith copy of a report from the Commissioner of the General Land Office, dated the 25th ultimo, on H. R. 6087, "Granting to the State of Kansas the entire remaining portion of the abandoned Fort Dodge Military Reservation in said State as an addition to and for the use of the State Soldiers' Home."

The Commissioner sets forth very fully in his report the history of the reservation affected by the proposed legislation.

The Commissioner states that in the event Congress sees fit to donate the remaining portion of this reservation to the State of Kansas for the purpose indicated, his office has no objection to urge.

I concur in his conclusion.

Very respectfully,

C. N. BLISS, *Secretary*.

The CHAIRMAN OF THE COMMITTEE ON THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 25, 1898.

SIR: I am in receipt, by your reference of February 18, 1898, for report in duplicate and return of papers, of H. R. bill No. 6087, "Granting to the State of Kansas the entire remaining portion of the abandoned Fort Dodge Military Reservation in said State as an addition to and for the use of the State Soldiers' Home," transmitted to your Department by Hon. John F. Lacey, chairman of the Committee on the Public Lands, House of Representatives, with request for any information or suggestions thereon that you may deem proper to aid the committee in its consideration thereof.

In reply I have the honor to state that this bill is identical with H. R. bill No. 1883, upon which this office made a report January 14, 1896.

The Fort Dodge Military Reservation was established by Executive order of June 22, 1868, and originally contained 14,661 acres, a portion of which was within the limits of the Osage Indian trust lands.

The act of Congress of December 15, 1880 (21 Stat., 311), after setting forth that a certain part of the reservation was no longer needed for military purposes, directed the Secretary of the Interior to cause all that portion thereof in the State of Kansas lying north of the land owned and occupied by the Atchison, Topeka and Santa Fe Railroad Company, for right of way of its road, to be surveyed, sectionized, and subdivided as other public lands, and thereafter to offer said lands to actual settlers only under the provisions of the homestead laws, with the proviso that the railroad company should have the right to purchase such portion thereof as it might need for its use adjoining that then owned by it, not exceeding 160 acres, by paying therefor the price at which the same might be appraised by the Secretary of the Interior.

The portion of the reservation north of said railroad was disposed of in accordance with said act, except that portion in the said Indian reserve.

The act of Congress of May 28, 1880 (21 Stat., 143), provided for the manner of the disposal of the Osage Indian trust lands.

By Executive order of January 12, 1885, the reservation was turned over to the Interior Department for disposal under the act of July 5, 1884 (23 Stat., 103). That portion of these lands in the Indian reserve, except the subdivisions containing buildings was, after the relinquishment of the reservation, disposed of in accordance with the said act of May 26, 1880.

The act of March 2, 1889 (25 Stat., 1012), authorizing the Secretary of the Interior to sell to the State of Kansas, for the establishment of a soldiers' home on conditions therein named, lots 3, 5, 6 and 7, sec. 3, T. 27 S., R. 24 W., which were described in said act as the "remaining portion of the Fort Dodge Military Reservation."

It appears from the records of this office that the State of Kansas purchased said lots (which lots contained Government buildings), June 13, 1889, and has fulfilled the conditions of said act by establishing and maintaining a soldiers' home thereon.

The Fort Dodge Reservation covered land in T. 25 S., Rs. 23 and 24 W., T. 26 S., Rs. 23 and 24 W., T. 27 S., Rs. 23 and 24 W.

The northern boundary of the Indian reserve passes through the extreme northern parts of section 30, T. 26 S., R. 23 W., and sections 25, 26, 27, 28, and 29, T. 26 S., R. 24 W.

The Atchison, Topeka and Santa Fe Railroad passes diagonally from northeast to southwest across that portion of the reservation north of the Indian reserve and

through section 16, T. 26 S., R. 23 W., and through sections 13, 24, 23, 22, and 21, T. 26 S., R. 24 W.

As the act of December 15, 1880 (*supra*), opened to homestead entry the lands in this reservation north of the said railroad, and as the lands south of the northern boundary line of and lying within the said Indian reserve were disposed of under the act of May 26, 1880 (*supra*), there remained a triangular piece of land south of said railroad and north of the Indian reserve, lying in fractional sections 18, 19, and 30, T. 26 S., R. 23 W., and in fractional sections 13, 24, 23, 22, 21, 25, 26, 27, 28, T. 26 S., R. 24 W., the disposal of which was not provided for by any special act of Congress, and which naturally is subject to the provisions of the said act of July 5, 1884.

The said triangular piece of land is the remaining portion of the reservation, the donation of which to the State of Kansas is proposed by this bill. It contains 1,882.93 acres.

In the year 1889 the local officers at Garden City, Kans., erroneously allowed eleven homestead entries and one timber-culture entry to be made for these lands. These entries were, after proper procedure, canceled for illegality because the lands were not subject to homestead entry.

On April 9, 1892, and October 21, 1893, this office made unfavorable reports to the Department on H. R. bills Nos. 5683 and 338, respectively, "For the relief of certain settlers within what was formerly the Fort Dodge Military Reservation, in Ford County, Kansas, and to confirm entries of public lands erroneously allowed thereon."

The persons who made the entries above referred to were named in said bills, the object of which was to confirm their entries. Neither of said bills was passed by Congress.

The act of August 23, 1894 (28 Stat., 491), opens to settlement, under the conditions therein named, all lands in abandoned military reservations where the area exceeds 5,000 acres.

While this reservation originally contained 14,661 acres, yet at the date of the passage of said act of August 23, 1894, it contained only the 1,882.93 acres above mentioned, and I am of the opinion that this remaining portion of the reservation is not subject to the provisions of the said act of August 23, 1894, but must be disposed of at public sale, after due advertisement, to the highest bidder, for cash, at not less than the appraised value, as provided for by the second section of the act of July 5, 1884.

The lands in question were appraised December 21, 1897, at from \$1.25 to \$2.50 per acre, the total appraised value thereof being \$2,740.37. This appraisal has not yet been approved by the Department.

If Congress sees fit to donate the said remaining portion of this reservation to the State of Kansas for the purposes indicated this office has no objections to urge.

The bill and letter are herewith returned.

Very respectfully,

BINGER HERMANN,
Commissioner.

The SECRETARY OF THE INTERIOR.

○

BOARD OF MANAGERS OF THE NATIONAL HOME FOR
DISABLED VOLUNTEER SOLDIERS.

APRIL 19, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. GRIFFIN, from the Committee on Military Affairs, submitted the
following

REPORT.

[To accompany H. Res. 237.]

The Committee on Military Affairs, to whom was referred the annual report of the Board of Managers of the National Home for Disabled Volunteer Soldiers, herewith submit a joint resolution for the appointment of four members of said board to fill vacancies which will occur therein on April 21, 1898, by reason of the expiration of the terms of four of the present members.

The original act pursuant to which the National Home for Disabled Volunteer Soldiers was established was amended in 1866 so as to provide that the President of the United States, the Secretary of War, the Chief Justice of the United States, and nine citizens, to be selected by joint resolution of the Senate and House of Representatives, should constitute the Board of Managers. Said act was further amended on March 2, 1887, so as to provide that thereafter the number of managers elected by Congress should be ten, one of whom was required to be a resident of a State or Territory west of the Rocky Mountains. On March 3, 1891, the act was again amended so that the number of citizen members who should constitute the board was increased to eleven, which is the membership fixed by the law now in force, and the term of office of each was fixed at six years and until a successor should be elected,

The present members elected by Congress are: Gen. William B. Franklin, term expires April 21, 1902; Gen. William J. Sewell, term expires April 21, 1898; Gen. Martin T. McMahon, term expires April 21, 1898; Col. John L. Mitchell, term expires April 21, 1898; Gen. Alfred L. Pearson, term expires April 21, 1900; Col. George W. Steele, term expires April 21, 1902; Gen. A. W. Barrett, term expires April 21, 1898; Gen. Charles M. Anderson, term expires April 21, 1900; Col. Sidney G. Cooke, term expires April 21, 1900; Gen. Thomas J. Henderson, term expires April 21, 1902; Gen. J. Marshall Brown, term expires April 21, 1902.

The joint resolution herewith reported provides for the election of Gen. William J. Sewell, of New Jersey; Gen. Martin T. McMahon, of New York, and Col. John L. Mitchell, of Wisconsin, to succeed themselves, and for the election of Maj. William H. Bonsall, of California, to succeed Gen. A. W. Barrett.

Your committee recommend that the joint resolution be adopted.

THE WASHINGTON IMPROVEMENT AND DEVELOPMENT COMPANY.

APRIL 20, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CURTIS, of Kansas, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 4108.]

The Committee on Indian Affairs, to whom was referred the bill (S. 4108) granting to the Washington Improvement and Development Company a right of way through the Colville Indian Reservation in the State of Washington, having had the same under consideration, report it back with amendments and recommend that when so amended it do pass.

At the hearing it was shown to your committee that the proposed line was to be built into the south half of said reservation; that about 50 miles of railroad would have to be constructed before the reservation was reached, and that said railroad would not extend over 50 miles in the south half of said reservation. It also appeared to your committee that the company was acting in good faith and intend to build said railroad as soon as possible, all necessary arrangements having been made for the commencement of the construction immediately.

The committee recommend that the bill be amended as follows:

On page 2, in line 15, strike out the word "three" and insert in lieu thereof the word "two."

On page 3, in line 16, strike out the word "fifty" and insert in lieu thereof the word "twenty-five."

On page 3, line 17, strike out the word "three" and insert in lieu thereof the word "two."

DETERMINATION OF RIGHTS OF CERTAIN INDIANS.

APRIL 20, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. LITTLE, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 3544.]

The Committee on Indian Affairs, to whom was referred Senate bill No. 3544, have had the same under consideration and return it with the following amendments:

After the word "rights," at the end of line 6, on page 5, add the following language:

Provided, however, That nothing herein shall in any manner impair or disturb any rights acquired by such persons by virtue of the findings and judgment of the Commission to the Five Civilized Tribes of Indians, or of the United States courts in the Indian Territory upon appeal in proceedings had under the jurisdiction and authority conferred by act of Congress approved June tenth, eighteen hundred and ninety-six.

Add the following as section 6, to be inserted at the end of section 5:

SEC. 6. That the Delaware Indians residing in the Cherokee Nation are hereby authorized and empowered to bring a suit, in law or in equity, against the United States Government in the Court of Claims to recover and collect from the United States Government any money that in law or equity may be found due to the said tribe under treaty stipulations and for reimbursement of their tribal fund for money wrongfully diverted therefrom.

That the Peoria tribe of Indians is hereby authorized and empowered to bring a suit in the Court of Claims of the United States within six months after the passage of this act against the United States Government for the purpose of determining what, if any, moneys or lands are due said Peoria tribe from the United States, particularly under treaties of eighteen hundred and fifty-four (Tenth Statutes, —) and eighteen hundred and sixty-seven (Fifteenth Statutes, five hundred and thirteen), and jurisdiction is hereby conferred on said court to hear and determine the same.

That the Seminole Nation of Indians in the Indian Territory be, and is hereby, authorized and empowered to institute in the United States Court of Claims against the United States a suit or suits to recover any and all moneys and arrears of interest claimed to be due said nation under or in pursuance of law or treaty stipulations.

Also, the persons known as the loyal Seminole Indians in the Indian Territory be, and they are hereby, authorized and empowered, within ninety days after the passage of this act, to institute suit in the said Court of Claims against the United States to recover any and all moneys claimed to be due them in pursuance of treaty stipulations.

Also, the persons known as the loyal Creek Indians are authorized to bring suit as herein provided for any loss of property under the provisions of the treaty of eighteen hundred and sixty-six.

All reports, records, and documents relative to said claims on file in any of the Executive Departments of the Government and any awards made by the Secretary of the Interior in relation thereto may be used before said court, to the end that justice may be done to all parties in interest. •

On page 5, line 7, strike out "6" and insert "7."

On page 6, strike out all of lines 9, 10, 11, 12, and 13 and insert the following: "and the judgment of said court shall be final."

Your committee are of the opinion that the several questions sought to be transferred to the Court of Claims for adjudication by the bill are of that character that can be settled with more satisfaction in a court, upon judicial investigation, than in a legislative body, involving as they do intricate and complicated questions of law and fact.

The extent of the interest of the Delaware Indians to the lands and tribal funds of the Cherokee Nation, the extent of interest of the white persons who have intermarried with Indian citizens to participate in the allotment of lands and tribal funds of their respective nations or tribes, and the interest of that class of persons known as the "Chickasaw freedmen" in the lands and tribal funds of said Chickasaw Nation are questions of long standing and have been the fruitful source of much contention and dissatisfaction, and they demand a speedy and just settlement. Their determination must precede the allotment of the tribal lands in severalty or any just distribution of funds belonging to said tribes or nations.

The other matters covered by the bill are of minor importance, involving disputed claims between the nations and citizens of the nations and the United States, but justice and fair treatment demand that these disputes should be adjusted.

Your committee therefore recommend the passage of the bill.



THREE BRIDGES ACROSS THE CONECUH RIVER,
ALABAMA.

APRIL 20, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. DAVIS, from the Committee on Interstate and Foreign Commerce,
submitted the following

REPORT.

[To accompany H. R. 9281.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 9281) authorizing the construction of three bridges across the Conecuh River, a navigable stream, in Escambia County, Ala., submit the following report:

The bill contains ample provisions for the protection of the navigation interests of the Conecuh River and is satisfactory to the War Department.

The committee are unanimous in recommending its passage.

The report of the Chief of Engineers, United States Army, relating to the bill is herewith attached and made a part of this report.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, April 5, 1898.

SIR: I have the honor to return herewith a letter, dated the 22d ultimo, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for the views of the War Department thereon H. R. 9281, Fifty-fifth Congress, second session, "A bill authorizing the construction of three bridges across the Conecuh River, a navigable stream, in Escambia County, Alabama," and, in reply to its reference to this office, I beg to say that the bill appears to contain ample provisions for the protection of the limited navigation interests of the Conecuh River, and, so far as those interests are concerned, I know of no objection to its passage by Congress.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, United States Army.

Hon. R. A. ALGER,
Secretary of War.

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SETTLEMENT WITH THE STATE OF FLORIDA.

APRIL 20, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SULLIVAN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 415.]

The Committee on Claims, having under consideration the bill (H. R. 415) for relief of State of Florida, submit the following report:

This claim has been before the committee on several former occasions, and its history is given in a report made thereon during the Fifty-third Congress, which is made a part of the present report and is as follows:

[House Report, Fifty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 1286) to authorize the Secretary of the Treasury to pay to the State of Florida the balance found to be due said State according to an account stated by the Secretary by authority of Congress, have given the case careful consideration and submit the following report thereon:

The principal item of this claim in behalf of the State originated during the Seminole wars. When Indian hostilities were renewed in December, 1855, the governor, believing the United States forces in the field to be wholly inadequate to protect the settlers, raised, equipped, and provisioned a number of companies. They were mustered into the State service and rendered efficient aid in connection with the United States troops in protecting the country in the war that ensued. These troops were offered to the War Department, but only a part of them were accepted. The war had, however, assumed greater proportions than the military authorities at Washington supposed, and it afterwards became manifest that the services of these companies were required, and their employment was approved by the President.

But in consequence of the delays incident to the long distance, the difficulties of communication, and other causes, and the ending of the terms of enlistment, the order of the War Department to muster them into the United States service was never carried out and the expense of maintaining these particular companies fell upon the State. After these companies had performed this service a larger force was employed and maintained by the United States in the further prosecution of the war.

The State being unable to bear this expense from the ordinary resources of her treasury, the legislature authorized the governor to issue bonds to raise the necessary funds to pay off these troops and the cost of their maintenance, and he did so. Some of these bonds were bought by the United States for the Indian trust fund, and still constitute a part of that fund; some after their maturity were refunded in other interest-bearing obligations of the State, and the State has continuously been liable for interest on the money originally borrowed, and much of this interest has been paid; the part not paid is represented by outstanding coupons and liabilities on overdue bonds in the Indian trust fund.

The amount of this claim was investigated by the War Department and reported to Congress by Secretary Lincoln in obedience to a joint resolution approved March 3, 1881. The report from the Military Committee of the Senate favoring the adoption of this joint resolution was presented by the late Senator from Kansas (Mr. Plumb) and gives a brief history of the case, to which reference is made for further particulars, and it is hereto attached as a part of this report. The reference was accordingly made to the War Department, and Secretary Lincoln made his report May 22, 1882. (House Ex. Doc. No. 203, Forty-seventh Congress, first session.) The matter was referred in the Senate to the Committee on Military Affairs and a favorable report was made as to the principal of the debt, but the State was unwilling to accept this as a settlement, believing that she was entitled to be reimbursed for moneys paid on account of interest as well as for the principal sum paid or for which she had given her valid obligations.

No further progress was made till the Fiftieth Congress, when, in accordance with an amendment offered in the Senate to the deficiency appropriation bill, the Secretary of the Treasury was directed to examine the claim and report all claims in favor of the State of Florida and the General Government and to state the account between them.

The result was reported to Congress during the first session of the Fifty-first Congress and is found in House Ex. Doc. No. 68. It suggests two methods of stating the account; the first, which is the most favorable to the United States, results in a balance due the State of \$567,954.50 up to January 1, 1890, the date to which interest was computed.

A bill to make a settlement upon this basis was referred to this committee during the Fifty-first Congress and favorably reported, but no final action was taken upon it. A similar bill was favorably reported by the committee during the Fifty-second Congress and was passed in the Senate. It was also favorably reported by the Committee on Claims of the House of Representatives, but it was still upon the Calendar at the final adjournment. Reference is here made to the report of the Senate committee for a fuller history of the case than is here given (vide Senate Report No. 198, Fifty-second Congress, first session).

After it became manifest that the bill would not be reached upon the House Calendar the substance of it was incorporated in an amendment to the deficiency appropriation bill in the Senate, which was adopted, but upon a nonconcurrence in the House it was lost in conference and the effort to secure the desired legislation failed.

The committee have again considered the claim and have reached the same conclusion as to its merits that has been before reached, and it is recommended that the bill do pass.

[Senate Report No. 378, Forty-sixth Congress, second session.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. R. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida, have had the same under consideration and submit the following report:

The claims of the State of Florida, for which this resolution seeks to make provision, grew out of the Seminole war of 1855-1857. It appears that in December, 1855, the Indians of that tribe in Florida, who had for some time been in a turbulent and threatening state, commenced actual hostilities by attacking a detachment of United States troops commanded by Lieutenant Hartsuff. This outbreak occasioned great excitement along the extended exposed frontier, and urgent demands were made upon the State authorities by the people for their protection. So urgent seemed the necessity that the citizens of several of the counties hastened to effect voluntary organizations in advance of the action of the State executive. These companies were promptly recognized by the governor, and rendered efficient service. In the emergency the governor appealed to the War Department to accept the services of the troops thus raised and organized, but the Secretary consented to receive only five companies.

These forces, with the United States troops then on duty in that section, were inadequate to the protection of the people, and the governor felt constrained to retain in the service, besides those received by the General Government, several companies, aggregating about 400 men. These were added to from time to time as the exigency seemed to require. These forces were regularly organized and mustered into the service of the State for a period of six months, unless sooner discharged. They cooperated with the United States troops and rendered efficient service.

All the facts in the case and the voluminous correspondence submitted—correspondence between the State executive and officers of State troops and citizens living in the exposed localities, and between the executive and the military authorities at

Washington and the officers of the United States Army in service in Florida—satisfy the committee that the necessity which prompted the action of the governor in organizing and maintaining State troops in the field was imperative. He could not well have done less than he appears to have done without culpable neglect of duty.

This service, of course, was a serious burden to the State financially. The troops in the field had to be equipped, supplied, and paid. The funds at the command of the executive were insufficient for the purpose, and he was forced to negotiate burdensome loans in anticipation of the action of the legislature. This is a mere outline of the facts upon which the committee base their recommendation, as they do not deem it necessary to their present purpose to treat the subject in minute detail.

On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective cooperation with the United States troops, and to emphasize the necessity of the course he pursued he alluded to the circumstance that when Brigadier-General Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, "being," as the governor remarks, "a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter." The governor concluded his letter by asking the Secretary of War, in behalf of the United States, "to approve and adopt the service."

Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that "an officer be sent as soon as possible to muster them in and out of the service of the United States," which recommendation was approved by the Secretary of War, who notified the governor as follows:

WAR DEPARTMENT,
Washington, D. C., May 21, 1857.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,

JOHN B. FLOYD, *Secretary of War.*

His Excellency JAMES E. BROOME,
Governor of Florida, Washington.

The official order mentioned in the foregoing letter is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., May 21, 1857.

SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster rolls will at once be sent to your address.

I am, sir, very respectfully, your obedient servant,

S. COOPER, *Adjutant-General.*

COMMANDING OFFICER,
Department of Florida, Tampa, Fla.

On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no

officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question."

The committee are of the opinion that the facts set forth as to the urgent necessity for the services of these troops for the defense of the State and the protection of the people against the hostilities of the Indians create an equitable obligation on the part of the General Government to reimburse the cost of such necessary service. This obligation is so clearly enforced by a long series of precedents that the action of the President and the Secretary of War in this particular case only strengthens it by evidencing the opinion they entertained at the time, with a full knowledge of all the facts and circumstances, of the judicious and necessary action of the governor in summoning the troops to the field. In a report recently submitted to the Senate by this committee, and also submitted in the last Congress, relative to military expenditures by the State of Kansas, the question of the obligation on the part of the United States to reimburse the States for expenditures of this character is fully presented in the light of numerous cited precedents. The committee would not deem it necessary to traverse this field again, even if the liability of the Government were less generally conceded than it is. We hold, therefore, that the State of Florida has a proper and legitimate claim against the United States for expenses properly incurred by her in the manner indicated.

While the committee are satisfied of the justness of this claim of the State of Florida they are not prepared to recommend the passage of the specific bill referred to them. They think it would be wiser to authorize and direct the Secretary of War to cause this claim to be thoroughly investigated and to report the result to Congress for further consideration. It is probable that the data on file in the War Department will greatly facilitate the proposed investigation, so that no great delay is likely to result if the recommendation of the committee shall be adopted by the Senate and be followed by a law to the same effect. A similar course has been pursued in the case of the State of Kansas, to which reference has been made, and we therefore submit a substitute for the joint resolution and recommend its passage.

The facts have again been carefully considered by the committee and the same conclusions have been reached as before, and it is recommended that the bill do pass.



CLARK & BILL.

APRIL 20, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLIVAN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 6816.]

The Committee on Claims, to whom was referred House bill 6816, respectfully report:

W. N. B. Clark and W. W. Bill owned a store, containing a general assortment of goods, in the Territory of Dakota, near the crossing of the James River by the Northern Pacific Railroad. On February 23, 1873, Captain Bates, of the Army, together with Lieutenant Yeckley, seized this stock of merchandise because spirituous liquors constituted a part of the same. The officers acted under military orders and supposed that they were justified under act of June 30, 1834, regulating trade and intercourse with the Indian tribes, the twentieth section of which forbids the introduction of wines and spirituous liquors within the Indian country.

The owners of these goods contended that the place where their store was carried on was not in the Indian country. This question was determined by the court of the Territory in 1874 in favor of the owners. (The opinion of the court is reported in the first volume of the Dakota Reports, at page 48.) An appeal was taken by the officers, and the case will be found reported in 95 United States Reports, 204. The Supreme Court of the United States affirmed the decision below, deciding that the officers had no right to seize these goods. Two judgments were recovered against these officers in the amounts named in the bill. Evidence has been exhibited to the committee that neither of these judgments has been paid, in whole or in part. There is also a letter from the United States district judge, certifying to the character and integrity of Mr. Bill.

Had this seizure been made by private parties the plaintiffs would probably long ago have collected their judgments for damages. The military officers acted in good faith. They were unable to respond to the plaintiffs in damages. Had these officers been able to respond they would have had to pay the judgments themselves. In that event Congress would have undoubtedly reimbursed them the amount so collected.

There would seem to be no reason why the United States should not make good to the claimants the amount awarded them by the courts.

It may be said that this case has an importance because it elicited from the Supreme Court of the United States an announcement of what should be considered as Indian territory within the meaning of the act. So important a result may be in some sense regarded as an additional reason why these judgments should be paid.

An instance of an appropriation to pay a judgment rendered against a United States officer who acted illegally, though in good faith, is that of Kilbourn against Thompson in 1885 (23 U. S. Statutes, 46).

The committee therefore recommend the passage of the bill.

○

WILLIAM R. WHEATON AND CHARLES H. CHAMBERLAIN.

APRIL 20, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. McEWAN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 1319.]

The Committee on Claims, to whom was referred the bill (H. R. 1319) for the relief of William R. Wheaton and Charles H. Chamberlain, having given the same careful consideration, beg leave to report it back to the House amended by striking out, in lines 6 and 7, the words "six thousand two hundred and seven dollars and ninety-nine cents," and inserting in lieu thereof the words "three thousand eight hundred dollars," and recommend that as amended the bill do pass.

For a statement of facts in this matter the committee attach hereto, and make a part of their report, the report from Senate Committee on Public Lands of the Fifty-third Congress, second session.

Senate Report No. 203, Fifty-third Congress, second session.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany S. 1057.]

The Committee on Public Lands having had under consideration the bill (S. 1057) to relieve William R. Wheaton and Charles H. Chamberlain, of California, recommend the passage of the bill without amendment.

The facts are contained in the following statement of John Mullan, esq., attorney for claimants. The bill has passed the Senate several times, has passed Congress once, at least has been favorably recommended by every Commissioner of the General Land Office, and every Secretary of the Interior, who have reported upon the measure, except the present Commissioner and Secretary, whose reports are hereto attached and made part hereof.

No. 1310 CONNECTICUT AVENUE,
Washington City, D. C., January 20, 1894.

GENTLEMEN: As counsel and attorney for William R. Wheaton and Charles H. Chamberlain, the parties named in Senate bill No. 1057, Fifty-third Congress, first session, introduced October 6, 1893, for their relief, by Senator Perkins, of California, I have the honor to submit to you herewith a statement, part written, part printed, in behalf of said named parties and in support of an amendment to said bill, and ask therefor your careful consideration, whenever action is had on said bill, and that the statement may, as an appendix, be printed to any report you may make to accompany said bill.

And oblige yours truly,

JOHN MULLAN,
For Wheaton and Chamberlain.

The COMMITTEE ON PUBLIC LANDS,
U. S. Senate.

A BILL for the relief of William R. Wheaton and Charles H. Chamberlain, of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, ex-register, and to Charles H. Chamberlain, ex-receiver of the land office at San Francisco, California, jointly, out of any money in the Treasury not otherwise appropriated, the sum of six thousand two hundred

and seven dollars and ninety-nine cents, and to said William R. Wheaton the sum of seventy-five dollars and eighty-five cents, being a portion of the amount of money deposited in the Treasury of the United States as fees for testimony which was taken before them by clerks whose compensation was paid from the private funds of said ex-register and said ex-receiver.

Senate bill No. 1057, introduced in the Senate October 6, 1893, by Senator Perkins, of California, for the relief of William R. Wheaton and Charles H. Chamberlain, of California.

The facts out of which this bill of relief arises, and the history and merits of the petitions of these two claimants for relief from Congress, while recited generally and substantially in the several reports heretofore made to Congress in their behalf, have not yet all been fully and exactly brought to its attention.

A copy of one of these reports, to wit, House Report No. 4017, Fifty-first Congress, second session, is attached hereto and made a part hereof and marked A.

On page 14 of said report is recited the letter of the chief clerk of the General Land Office, who, on July 9, 1877, acting as the Commissioner of the General Land Office, issued, not to all the registers and receivers of the United States land offices, but only to a part of them, to wit:

Those in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, a letter that, beginning on July 1, 1887, "they should report to the General Land Office in the manner as indicated on the face of a certain blank, the joint fee for their services in reducing to writing for claimants' testimony adduced in establishing preemption and homestead claims."

There was no order, no instruction, no legal obligation to deposit at that time these fees (so received) to the credit of the United States, but simply to report to the General Land Office only the aggregate amount thereof monthly, in a certain form, and there was no order to deposit said fees to the credit of the United States until February 8, 1879. And thereupon the total amount thereof so received by these two officers, Wheaton and Chamberlain, between July 1, 1877, and March 31, 1879, were duly deposited to the credit of the United States without any diminution.

The order to make said report to the General Land Office is as follows, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., July 9, 1877.

REGISTER AND RECEIVER,
Prescott, Ariz.:

GENTLEMEN: I have to request that, commencing with the present month and continuing regularly from month to month thereafter, you will report to this office in the manner indicated upon the face of the accompanying blank, in addition to other fees, etc., the joint fee at the rate of 22½ cents per one hundred words, authorized by subdivisions 10, 11, and 12, section 2238, United States Revised Statutes, for the services of register and receiver in reducing to writing for claimants the testimony adduced in establishing preemption and homestead claims.

If no fees of the class alluded to are received during the month, that fact must be noted upon the fee statement.

I am, very respectfully, etc.,

U. J. BAXTER,
Acting Commissioner.

A copy of the foregoing circular letter was also addressed, under date of July 9, 1877, to the registers and receivers at the following land offices, to wit:

Oneida, Idaho.	Los Angeles, Cal.	Walla Walla, Wash.
Helena, Mont.	Susanville, Cal.	Salt Lake City, Utah.
Bozeman, Mont.	Central City, Cal.	Florence, Ariz.
Pioche, Nev.	Fair Play, Colo.	Humboldt, Cal.
Elko, Nev.	Del Norte, Colo.	Sacramento, Cal.
La Grande, Oregon.	Boisé City, Idaho.	Visalia, Cal.
The Dalles, Oregon.	Santa Fé, N. Mex.	Shasta, Cal.
Vancouver, Wash.	La Mesilla, N. Mex.	Independence, Cal.
Colfax, Wash.	Eureka, Cal.	Denver, Colo.
Cheyenne, Wyo.	Carson, Nev.	Pueblo, Colo.
Marysville, Cal.	Roseburgh, Oregon.	Lake City, Colo.
San Francisco, Cal.	Linkville, Oregon.	Lemhi, Idaho.
Stockton, Cal.	Olympia, Wash.	

The order to make said deficit to the credit of the United States is as follows, to wit:

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly accounts current, as follows:

Third quarter 1877.....	\$1,081
Fourth quarter 1877.....	850
First quarter 1878.....	903
Second quarter 1878.....	935
Third quarter 1878.....	648
Fourth quarter 1878.....	764

Making in the aggregate \$5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States and take certificates of deposit in triplicate. The original C. D. you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office, that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for \$5,181, covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th of February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

The fact that both of said orders were strictly and fully obeyed by said two officers, and that, too, without any diminution of any sum, for any purpose whatsoever, is evidenced by the official report thereof and made specially thereon by the Hon. Commissioner of the General Land Office, as follows, to wit:

WILLIAM R. WHEATON AND CHARLES H. CHAMBERLAIN.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,
Secretary of the Interior:

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1878, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting to the aggregate to \$5,330.76, which amount was charged to Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (See exhibit herewith marked A.)

This money was so deposited, and April 17, 1879, this office acknowledged the receipt of a certificate of deposit for \$5,181 (see copy of letter herewith marked B),

and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of \$149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys. (This is error.—J. M.)

Section 2255, Revised Statutes, provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assistance, but no authority was given for the employment of clerks, and whatever said expenses may have been the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of those fees from which they paid the salaries of the clerks necessary to the transaction of the public business (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill 325 without recommendation.

The following described papers are also transmitted:

A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.

B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. McFARLAND,
Commissioner.

This report shows that between July 1, 1877, and February 8, 1879, these two officers as register and receiver collected jointly from private parties for reducing to writing the testimony taken before them in private contested land cases the sum of \$5,330.76; and while writing was done by clerks employed and paid by said register and receiver for that specific purpose. (See p. 12, Exhibit No. 4.) A similar bill has passed Congress twice, the first of which was with the President ten days without being signed, Congress having adjourned, and the second bill (S. 3546) was vetoed by the President January 17, 1889, for the reasons, substantially as recited in his veto message to the Senate in words as follows, to wit:

"If there is any equity existing in favor of the beneficiaries named in the bill herewith returned, it is found in the fact that during the nineteen months from the 1st day of July, 1877, to the 1st day of February, 1879, they paid out certain moneys for which the Government, in the receipt of the fees which they paid over, received the benefit. Manifestly such equity in this case, if it can be claimed at all in view of the facts recited, is measured by the sum actually paid by these officials to the persons, if such there were, who did the work from which the fees arose which were paid over to the Government.

"In other words, if certain clerks were paid by the beneficiaries from their private funds for doing this work, there should be a distinct statement of the sum so paid, and their claim should rest upon indemnity and reimbursement alone. But no such statement appears, so far as I can see from an examination of papers presented to me by the Interior Department and from the report of the Senate committee who reported this bill, except as it may be gathered from the rather indirect allegations contained in a paper prepared by counsel.

"No vouchers have ever been received at the General Land Office for money paid for clerical services rendered during the period for which reimbursement is sought. The verified statement of the claimants annexed to the committee's report contains only the allegation that they paid for the necessary clerical services, and the affidavits of the clerks themselves furnish no clew to the amount they received. Such an omission, in my opinion, discredits the claim made, and the allowance of the sum of \$100 per month for two clerks during the period of nineteen months covered by this claim, because that was the sum authorized to be paid thereafter for clerk's services, is, it seems to me, adopting a standard entirely inapplicable to the subject.

"In any event these beneficiaries should be required to establish the sum necessary for such indemnification, and the amount appropriated for their relief should be limited to that sum.

"GROVER CLEVELAND.

"EXECUTIVE MANSION, January 17, 1889."

Since the date of that veto a more thorough, if not an exhaustive, examination has been made in the General Land Office in reference not only to the said fees so collected by said register and receiver and so deposited to the credit of the United States, but also as to all similar fees so collected and so deposited up to the dates, respectively, when said register and receiver retired from office. From said search, it now fully appears that for ten years prior to said veto (wherein it was erroneously asserted that no vouchers had ever been received in the General Land Office for services rendered, etc., during that time) seventy vouchers had been so received, but by an oversight in that office said vouchers had been sent to the wrong division, A (the chief clerk's division), and not to the right division, M (the accounts division), and that these vouchers had been entirely overlooked, forgotten, no action had thereon, and their existence not even known until they were accidentally discovered by counsel herein in the old files of the chief clerk's division of the General Land Office (Division A) and are now reproduced by copy thereof herewith.

These vouchers cover the period for the fiscal year ending June 30, 1878, and show a disbursement during that period so duly reported by said register and receiver to the General Land Office, aggregating the sum of \$2,815, as recited in exhibits herewith and marked Nos. 1, 2, 3, 4, 5, 6, 7, officially reported by the Commissioner of the General Land Office, January 17, 1894. The fractional period of the year, to wit—seven months from July 1, 1878, to February 1, 1879—two clerks at \$100 per month, aggregating the sum of \$1,400 is covered by the affidavits of the two clerks who received same, the originals of which being filed in the record of the claim in Congress; copies thereof are as follows, to wit:

STATE OF CALIFORNIA,

City and County of San Francisco, ss:

Duncan McNee, being first duly sworn, deposes and says that he is forty years of age and a resident of San Francisco, Cal.; that he was clerk in United States land office, San Francisco, Cal., continuously from June 15, 1868, to September 1, 1886; that he commenced as such clerk under Charles H. Chamberlain, receiver, and served until after the expiration of said Chamberlain's term.

That he served for ten years under William R. Wheaton, register; that during the years 1877, 1878, 1879, 1880, and 1881 said Wheaton was register and said Chamberlain was receiver of said office.

That during said years he (McNee) received and was paid by said Wheaton and Chamberlain, register and receiver as aforesaid, the sum of \$100 per month, and he knows that the money so paid him for the period July 1, 1877, to February 1, 1879, was not paid by the United States, but was paid by said Wheaton and Chamberlain personally.

Affiant further swears that said Wheaton and Chamberlain had as clerks during said period (July 1, 1877, to February 1, 1879) other clerks, and especially one Alfred P. Pike, and that said Pike was also paid by said officers the sum of \$100 each month from July 1, 1877, to February 1, 1879.

Said Pike is not in this vicinity at present, so that his affidavit can not be obtained.

DUNCAN MCNEE.

Subscribed and sworn to before me on this 11th day of February, A. D. 1889.

LEE D. CRAIG,
Notary Public.

STATE OF CALIFORNIA,

City and County of San Francisco, ss:

Alfred P. Pike, being duly sworn, says that he has been employed as a clerk in said land office to reduce testimony to writing during the years 1877, 1878, 1879, 1880, and 1881, and is at this time employed therein at a salary of \$100 per month; that he has read the foregoing statement of the register and receiver, and that the same is true of his own knowledge; and that during said period he has known of the employment by said register and receiver of others besides himself and Duncan McNee, the chief clerk, to reduce testimony to writing.

ALFRED P. PIKE.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
United States Commissioner.

Notwithstanding the action, however, of the President, the Senate passed said bill (S. 3646) over the said veto by a vote of 35 to 8, as fully appears as follows, to wit:

S. 3646.

For the relief of William R. Wheaton and Charles H. Chamberlain, of California. Introduced by Mr. Dolph and referred to Committee on Public Lands, 11.

Reported back (S. Report 2397), 103.

Passed Senate, 407.

Passed House, 543.

Examined and signed, 567, 573.

Vetoed by President, 1003.

Referred to Senate Committee on Public Lands, 1004.

Passed the Senate over the President's veto: Ayes, 35; nays, 8—2488.

Yeas (35)—Allison, Butler, Call, Cameron, Chandler, Cullom, Daniel, Davis, Dawes, Dolph, Evarts, Farwell, Gibson, Gorman, Hale, Hampton, Hiscock, Hoar, Ingalls, Jones of Nevada, Mitchell, Morgan, Morrill, Paddock, Payne, Platt, Plumb, Ransom, Sherman, Spooner, Stanford, Stewart, Stockbridge, Teller, Walthall.

Nays (8)—Bate, Coke, Harris, Jones of Arkansas, Pasco, Pugh, Reagan, Turpie.

Absent (33)—Aldrich, Beck, Berry, Blackburn, Blair, Blodgett, Bowen, Brown, Chace, Cockrell, Colquitt, Edmunds, Eustis, Faulkner, Frye, George, Gray, Hawley, Hearst, Kenna, McPherson, Manderson, Palmer, Quay, Riddleberger, Sabin, Saulsbury, Sawyer, Vance, Vest, Voorhees, Wilson of Iowa, Wilson of Maryland.

The PRESIDENT *pro tempore*. Two-thirds of the Senators present having voted therefor the bill is passed, notwithstanding the objections of the Executive.

This bill then went to the House of Representatives, but the Fiftieth Congress adjourned before any action could be had thereon by the House during that Congress (Fiftieth Congress, second session).

Second. Under the act of Congress of March 3, 1883 (22 U. S. Stats., 484), an act entitled "An act relative to certain fees allowed registers and receivers," these two officers from similar sources jointly collected the sum of \$1,992.99 up to November 18, 1885. When said Chamberlain retired as receiver from office, and said Wheaton thereafter collected the one-half of \$151.71 up to the date August 24, 1886, when he as said register retired from office, and all of which said two sums were deposited with and paid over to the credit of the United States, notwithstanding the fact that this was in law and in fact the private fees of said two officers, and should properly and legally have been retained by them, as recited in said act of March 3, 1883, and none of which fees have ever as yet been refunded to them or to either of them, and as officially appears from Exhibit No. 8, attached hereto, as follows, to wit:

EXHIBIT No. 8.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 9, 1894.

SIR: In reply to your letter of the 5th instant, I have to state that the amount of fees received for reducing testimony to writing in land cases and deposited by Charles H. Chamberlain, ex-receiver at San Francisco, Cal., from March 3, 1883, to November 18, 1885, when he retired from office, was, as shown by the records of this office, \$1,992.99.

The amount received by John W. Leigh, the immediate successor of Mr. Chamberlain, from November 18, 1885, to August 24, 1886, the date Mr. Wheaton, register, left the office, was \$151.71.

Total amount received, deposited, and not refunded; by Mr. Chamberlain and his successor, Mr. Leigh, from March 3, 1883, during the remainder of William R. Wheaton's term of office was, \$2,144.70.

The register does not receive or deposit any moneys.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Hon. J. N. DOLPH,
United States Senate.

Therefore it now fully appears that said register and receiver are entitled to be refunded jointly by the United States the sum of \$6,207.99, arising thus—being the aggregate of said sums, \$4,215 and \$1,992.99, \$6,207.99—and that said William R. Wheaton, in addition thereto, is entitled in his sole right and in his own name to be refunded the one-half of \$151.71, to wit, the sum of \$75.85.

Wherefore I now move the honorable Committee on Public Lands in the Senate, that said bill, No. 1057, may be amended accordingly, and so as to read as recited in a bill amended so as to conform to these facts, and now attached hereto.

Respectfully,

JOHN MULLAN,
Counsel and Attorney for said Wheaton and Chamberlain.

EXHIBIT No. 1.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 17, 1894.

SIR: As requested in your letter of the 15th instant I inclose herewith copies of letter 90399, 1879, with inclosures, from the files of this office, the same relating to the matter of clerks in the land office at San Francisco.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Hon. J. N. DOLPH,
U. S. Senate.

EXHIBIT No. 2.

UNITED STATES LAND OFFICE,
San Francisco, Cal., January 11, 1879.

SIR: The undersigned, register and receiver of the United States land office at San Francisco, Cal., represent that the business of said office requires and always has required since they have held said office the assistance of two clerks in addition to the whole time of the register and receiver.

That under former instructions they were allowed to use the fees for taking testimony to pay for clerical service, but that since July 1, 1877, they have been required to report such fees, and the same have been charged against the receiver while they, the register and receiver, have been obliged to pay clerks for taking such testimony. We would also call attention to the fact that by the instructions we have been treated as a consolidated office, and therefore entitled under the law to clerks in the discretion of the Department. We therefore ask that we may be allowed the amount paid by us for clerk hire during the fiscal year ending June 30, 1878, according to the receipted bills herewith presented, and that for the present fiscal year we may be allowed for two clerks the sum of \$100 each per month.

In addition of payment of clerk hire above stated, we have paid, as per vouchers inclosed, rent for July, August, and September, 1877, at \$75 per month, \$225 also additional clerk hire (as per voucher inclosed) in December, 1877, \$40. And for janitor's services from July 1, 1877, to July 1, 1878, \$150, besides sundry amounts for coal, lights, etc.

Very respectfully,

WM. R. WHEATON.
Register.
CHAS. H. CHAMBERLAIN.
Receiver.

Hon. J. A. WILLIAMSON,
Commissioner General Land Office.

EXHIBIT No. 3.

U. S. LAND OFFICE,
San Francisco, Cal., June 30, 1878.

Wm. R. Wheaton, register, and Chas. H. Chamberlain, receiver, to Alfred P. Pike, Dr.
For services as clerk in the office of the register and receiver, San Francisco, Cal., for the year ending June 30, 1878, at \$100 per month..... \$1, 200
Received payment.

ALFRED P. PIKE.

EXHIBIT No. 4.

U. S. LAND OFFICE,
San Francisco, Cal., June 30, 1878.

Wm. R. Wheaton, register, Chas. H. Chamberlain, receiver, to Duncan McNee, Dr.
For services rendered as clerk in the office of the register and receiver, San Francisco, Cal., for the year ending June 30, 1878, at \$100 per month..... \$1, 200
Received payment.

DUNCAN MCNEE.

EXHIBIT No. 5.

U. S. LAND OFFICE,
San Francisco, Cal., June 30, 1878.

Received of William R. Wheaton and Charles H. Chamberlain, register and receiver, U. S. land office, San Francisco, Cal., \$40 in the month of December, 1877, for ten days' clerical service performed by me in said office during that month.

WM. H. CHAMBERLAIN.

\$40.

EXHIBIT No. 6.

U. S. LAND OFFICE,
San Francisco, Cal., June 30, 1878.

Wm. R. Wheaton, register, Chas. H. Chamberlain, receiver, to Barney Fletcher, Dr.

For service as janitor in the office of the register and receiver, San Francisco, Cal., from July 1, 1877, to June 30, 1878 \$150

Received payment.

BARNEY FLETCHER.

Witness:

D. MCNEE.

EXHIBIT No. 7.

SAN FRANCISCO, August 1, 1877.

Received of Chas. H. Chamberlain, U. S. land office, \$75 United States gold coin, for rent of office, 506 Jackson street, up stairs, to date.

E. G. LYONS & Co.
Per S. WOLFF.

\$75.

SAN FRANCISCO, August 31, 1877.

Received of Chas. H. Chamberlain, U. S. land office, \$75 United States gold coin, for rent of office, 506 Jackson street, up stairs, to date.

E. G. LYONS & Co.
Per S. WOLFF.

\$75.

SAN FRANCISCO, October 1, 1877.

Received of Chas. H. Chamberlain, U. S. land office, \$75 United States gold coin, for rent of office, 508 Jackson street, up stairs, to date.

E. G. LYONS & Co.
Per S. WOLFF.

\$75.

A.

[House Report No. 4017, Fifty-first Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 268) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

Between July 1, 1877, and February 8, 1879, William R. Wheaton was register and Charles H. Chamberlain was receiver of the United States land office at San Francisco, Cal. During this period these two officers jointly received from private parties, for reducing to writing testimony by them taken in private land cases of said parties, the sum of \$5,330.76, which sum, by an order of the General Land Office of February 8, 1879, these two officers, without any diminution whatsoever, deposited to the credit of the United States in the subtreasury in San Francisco.

From July 1, 1877, to February 8, 1879, San Francisco was a consolidated land office, at which the United States did not make any appropriation for compensation of clerks, but two clerks were employed in said office by said register and receiver during the whole of said period, and the compensation of these clerks was paid by said register and receiver.

So that during said period these two officers received the sum of \$5,330.77, out of which they paid their said clerks the sum of \$3,800; but these two officers were compelled under said order to deposit to the credit of the United States the whole of said \$5,330.77.

This bill, therefore, is to refund these two officers said \$3,800, so paid by them to said clerks in aiding them to perform the public duties of said office.

This bill passed the Senate on February 14, 1890, having been reported to Senate on January 6, 1890, in Report No. 38, copy of which is appended as an exhibit hereto and made a part hereof.

Your committee, therefore, recommend the passage of this bill.

A BILL FOR THE RELIEF OF WILLIAM R. WHEATON AND CHARLES H. CHAMBERLAIN,
OF CALIFORNIA.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, ex-register, and to Charles H. Chamberlain, ex-receiver, of the land office at San Francisco, California, jointly, out of any money in the Treasury not otherwise appropriated, the sum of three thousand eight hundred dollars, being a portion of the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said ex-register and said ex-receiver.

[Senate Report No. 38, Fifty-first Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 268) for the relief of William R. Wheaton and Charles H. Chamberlain, submit the following report:

A similar bill passed both Houses of Congress at the first session of the present Congress, and was presented to the President for his approval October 10, 1888, but having neither been approved nor returned to the House in which it originated when Congress adjourned, October 20, 1888, failed to become a law. The facts are set forth in the accompanying statement.

The committee recommend that the bill do pass.

1310 CONNECTICUT AVENUE, Washington, D. C., December 5, 1888.

To the honorable Committee on Public Lands, U. S. Senate:

As attorney and counsel for Hon. William R. Wheaton and Charles H. Chamberlain, I desire to submit for your consideration a statement in support of Senate bill No. 3646, second session Fiftieth Congress, as follows, to wit:

This bill is in all respects similar to the bill for the relief of these same parties which was favorably reported upon by the Senate Committee on Public Lands and by the House Committee on Claims by a unanimous vote of each committee during first session of the Fiftieth Congress (see reports herewith, made part hereof, and marked Exhibits 1 and 2).

These reports were based upon official data and sworn statements, submitted to said committees as evidence when this measure was first under consideration by them, respectively, and before any action of any kind thereon was had by either of said two committees. (See copies of said statements hereto attached, made part hereof, and marked Exhibits 3, 4, 5, 6, and 7.)

Senate bill No. 664, for this same object, passed the Senate and House after full explanation, and without a single dissenting vote against it in either the Senate or the House, said bill having passed the Senate on the 19th day of March, 1888, and passed the House on the 5th day of October, 1888. (Congressional Record, first session Fiftieth Congress, pp. 2327 and 10198.)

This bill (S. 664), duly enrolled, signed by the President of the Senate and Speaker of the House, was duly presented to the President on October 10, 1888, Congress having adjourned October 20, 1888, during which interval the President neither signed said bill nor returned it to the Congress with his objections. I am of opinion that the President had said bill for a period of ten legal days, yet it being a question whether said bill was before the President for the ten days named in the Constitution in these words, "If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress shall by their adjournment prevent its return, in which case it shall not be a law," it has been thought prudent to reintroduce this bill a second time and submit same for the consideration and action of your honorable committee and of Congress at this session.

The object of this bill (S. 3646) is to reimburse ex-Register Wheaton and ex-Receiver Chamberlain, of the U. S. land office of San Francisco, Cal., the sum of \$3,800 to be paid to them jointly—that is, \$1,900 to each—out of the sum of \$5,330.76 received by them jointly from private parties in California for reducing to writing testimony actually taken by them in contested and other preemption and homestead land cases of said private parties, and paid out by said ex-register and said ex-receiver to two clerks employed by them during a period of nineteen months, to wit, from July 1, 1877, to February 1, 1879, at \$100 per month each, and during which nineteen months the United States did not incur any expenses of any kind for any clerical public services of any nature whatsoever at said land office.

From the date of the admission of California in the Union to July 9, 1877, all registers and receivers therein, and also those in every other public-land State and Territory, upon a construction of the law that then and theretofore obtained, were allowed to retain all sums of money collected by them from similar sources and pay them out to the parties who reduced testimony to writing in all similar land-contested or other cases, instead of being compelled to either deposit the same in the U. S. Treasury, or to report the same to the General Land Office, and with no law upon the statute book that could enable them to get the money out of the Treasury when it once got in there.

But on February 9, 1877, the then chief clerk of the Land Office, Uri J. Baxter, in the accidental and temporary absence of the Commissioner of said office, and signing his name as Acting Commissioner, addressed, not to all but only to certain registers and receivers (those at San Francisco among others) a quasi circular letter, requesting them to report monthly to that office, in the manner indicated on the face of a certain paper named therein, the amounts of such sums so by them collected, and to note monthly what fees of this class were received by them; and also to note the fact if none were so collected. (See copy of said quasi circular letter hereto attached, marked Exhibit No. 8.)

This practice, so established in California and theretofore existing for twenty-five years, was followed by said Wheaton and Chamberlain from July 1, 1877, to February 8, 1879, continuously, notwithstanding said Exhibit 8, and because it seems that a serious question of dispute in the Interior Department between said two officials and the said Acting Commissioner of the General Land Office arose, to wit: Whether under the law, as theretofore construed, said two officials should continue to do as they had ever done prior to July 1, 1877, to wit, pay out said fees for the purpose for which they had collected them, to wit, pay same for reducing testimony to writing in said land cases, or whether they should deposit the same in the U. S. Treasury to the credit of the United States under the new and, as they thought, erroneous interpretation or construction given *sua sponte* to said law by a chief clerk, then signing himself as Acting Commissioner, and with no possible chance to get them out of the Treasury under any law of Congress when once in the Treasury, in order to pay them out or disburse them for the very purposes for which they had been paid by the private parties and collected by said two officials.

This mooted question was not finally concluded or finally decided by the honorable Commissioner of the General Land Office until February 8, 1879, and then decided to the effect that all sums collected from this source for the nineteen months prior to February 8, 1879 (the date of such final decision), to wit, from July 1, 1877, to February 8, 1879, should be by said officers immediately deposited in the U. S. sub-treasury at San Francisco to the credit of the United States (See Exhibit No. 5.)

This final decision, though made on February 8, 1879, was in one sense *ex post facto*, for instead of being made to apply to the future, it was, on the contrary, made to relate back to July 1, 1877, without making any provision of any kind to reimburse said two officers for the sum of money by them actually put out to the two or more clerks employed by them during said period of nineteen months, from July 1, 1877, to February 8, 1879, for reducing testimony to writing at said land office.

The most that the Interior Department did do, and as the sequence flowing directly from this contestation, was to make provision thenceforward for the future at said

land office, which was done by authorizing said two officers to employ two clerks at \$100 per month each, to be paid thereafter by the United States, and their payment to relate back to February 1, 1879. (See Exhibit No. 7.)

These two officials, therefore, were left without any remedy except to pursue their remedy in equity for a reimbursement by Congress. This they did before the Forty-eighth, Forty-ninth, and Fiftieth Congresses, when they sought to secure the whole sum by them actually disbursed during said nineteen months, and which disbursement was, in fact, the total sum they had collected, to wit, \$5,330.76.

But the Senate Committee on Public Lands, in view of the official action and official statements of the Interior Department, to wit, that two clerks at said office, on February 1, 1879, were needed, and that two had been duly authorized to be employed and to be paid from said date \$100 per month each, and in view of the further statement of the General Land Office that from July 1, 1877, to February 8, 1879, there had been an actual necessity for clerks at said land office, and that said two officers were equitably entitled to some relief, but how much that office had not the data to then enable it to determine, did therefore proceed to ascertain, and did actually ascertain, for itself, and said committee did fix such equitable allowance that should be paid by the United States to said two officials to cover said period of nineteen months, to wit, that identical allowance which had been made by the Interior Department itself, to wit, two clerks at \$100 per month each, to take effect from and on February 1, 1879.

Therefore the Senate Committee on Public Lands, computing the time at nineteen months, to wit, from July 1, 1877, to February 1, 1879, and the clerks needed thereat to be at least two in number, at \$100 per month each, did make and did in equity fix the allowance at the sum of \$3,000 to be paid these two officials jointly out of the sum of \$5,330.76, which said two officials had collected between July 1, 1877, and February 8, 1879, and did declare that the balance of the sum by them so collected, to wit, \$1,530.76, should revert to the United States and remain in the U. S. Treasury.

The committees in Congress, to wit, the Public Lands Committee in the Senate and the Claims Committee in the House, had all these facts before them prior to the dates when they reported and when Congress acted on said bill, and therefore Congress and its committees acted not only advisedly in the matter, but based their said action exclusively and took as their guide solely when determining the measure of allowance that should be made in equity to these two officials in this case, that exact measure of allowance which the Interior Department had itself established and fixed in this very case, and to take effect at said land office on February 1, 1879, and which allowance has continued to this date.

No clerk in said land office at San Francisco was ever paid any sum by the United States for any clerical public service performed therein and thereat at any time whatsoever prior to February 1, 1879. But since said last-named date the United States has continued to pay two clerks at the rate of \$100 per month each.

To pass this bill is to reimburse these two officials, therefore, for a part only of the money which they actually paid out.

Not to pass this bill is for the United States to receive as a forced gratuity the benefit of the service of two clerks for nineteen months, paid for at the private expense of these two officials, and not, as they should be, at the public expense of the United States.

Your honorable committee can not but easily discern that to pass this relief bill (S. 3646) will be to do partial equity only to these two officials and do no wrong to the United States.

A copy of the statement submitted to Congress by me in behalf of a similar bill, when the same was under consideration before the first session of the Forty-ninth Congress, is inclosed herewith, made a part hereof, and marked A.

Very respectfully,

JOHN MULLAN,
Attorney and Counsel for Wheaton & Chamberlain.

EXHIBIT No. 1.

[Senate Report No. 76, Fiftieth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 664) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

A similar bill was introduced at the Forty-ninth Congress, referred to the Senate Committee on Public Lands, and reported favorably with an amendment (Report No. 1319). Your committee adopted said report, which is as follows:

"The Committee on Public Lands, to whom was referred the bill (S. 988) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

"Between July 1, 1877, and February 8, 1879, William R. Wheaton was register, and Charles H. Chamberlain was receiver, of the United States land office at San Francisco, Cal. During this period these two officers jointly received from private parties, for reducing testimony in land cases to writing, the sum of \$5,330.76, and which sum, by a decision of the General Land Office, of February 8, 1879, they deposited to the credit of the United States in the subtreasury at San Francisco. During this period, from July 1, 1877, to February 8, 1879, this office was a consolidated land office, but at which the United States made no appropriation for hire of clerks, but clerks were employed—never less than two—and their compensation during this period was paid by said register and said receiver out of their private funds.

"On February 19, 1879, the Secretary of the Interior authorized the employment of the services of two clerks at \$100 per month, to date from February 1, 1879. So that it would appear that from July 1, 1877, to February 1, 1879, a period of nineteen months, these two officers employed at least two clerks and paid them for their services out of their private funds.

"For many years, long prior to July 1, 1877, these particular fees for reducing testimony to writing were never to be accounted for by registers and receivers as fees constituting a source of revenue, but they were retained by them for payment of clerical assistance to be by them employed, and these moneys were viewed as in the nature of expenses incident to the prosecution of the land claims rather than fees. An allowance, therefore, of two clerks from July 1, 1877, to February 1, 1879, at a compensation of \$100 per month each, seeming to your committee a fair and reasonable compensation, the same would seem to be the measure of relief to which these two officers are equitably entitled. They received \$5,330.76, and out of this sum your committee recommend that they be refunded the sum of \$3,800.

"Your committee, therefore, recommend the passage of the bill, with an amendment accordingly."

Your committee recommend that the bill be amended by striking out the words "five thousand three hundred and thirty" and inserting in lieu thereof the words "three thousand and eight hundred," and that when so amended the bill do pass.

EXHIBIT No. 2.

[House Report No. 305, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the bill (H. R. 661) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, report as follows:

A bill similar to the one now under review passed the Senate during the Forty-ninth Congress, and was favorably reported by the House Committee on Claims and placed on the Calendar, but failed to receive consideration by the House. The report of the Senate Committee on Public Lands so clearly set forth the facts on which this claim is based that your committee adopt the same, and make it a part hereof, and recommend that the bill do pass.

[Senate Report No. 1319, Forty-ninth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 988) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, submit the following report:

Between July 1, 1877, and February 8, 1879, William R. Wheaton was register and Charles H. Chamberlain was receiver of the United States land office at San Francisco, Cal. During this period these two officers jointly received from private parties for reducing testimony in land cases to writing the sum of \$5,333.70, and which sum, by a decision of the General Land Office of February 8, 1879, they deposited to the credit of the United States in the subtreasury at San Francisco. During this period, from July 1, 1877, to February 8, 1879, this office was a consolidated land office, but at which the United States made no appropriation for hire of clerks, but clerks were employed—never less than two—and their compensation during this period was paid by said register and said receiver out of their private funds.

On February 19, 1879, the Secretary of the Interior authorized the employment of the services of two clerks at \$100 per month, to date from February 1, 1879. So that

it would appear that from July 1, 1877, to February 1, 1879, a period of nineteen months, these two officers employed at least two clerks and paid them for their services out of their private funds.

For many years, long prior to July 1, 1877, these particular fees for reducing testimony to writing were never to be accounted for by registers and receivers as fees constituting a source of revenue, but they were retained by them for payment of clerical assistance to be by them employed, and these moneys were viewed as in the nature of expenses incident to the prosecution of the land claims rather than fees. An allowance, therefore, of two clerks from July 1, 1877, to February 1, 1879, at a compensation of \$100 per month each, seeming to your committee a fair and reasonable sation, the same would seem to be the measure of relief to which these two officers are equitably entitled. They received \$5,333.76, and out of this sum your committee recommend that they be refunded the sum of \$3,800.

Your committee therefore recommend the passage of the bill, with an amendment accordingly.

[Before the Forty-ninth Congress, first session.]

In the matter of the bill, to wit, Senate No. 988, introduced by Hon. Leland Stanford, and House No. 3227, Forty-ninth Congress, first session, introduced by Hon. Barclay Henley, for the relief of William R. Wheaton and Charles H. Chamberlain.

The bill is as follows, to wit:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, register, and to Charles H. Chamberlain, ex-receiver of the land office at San Francisco, Cal., jointly, out of any money in the Treasury not otherwise appropriated, the sum of \$3,800, being a portion of the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said register and said ex-receiver."

STATEMENT OF THE CASE.

On July 1, 1877, and continuously thereafter to February 19, 1879, and for many years immediately preceding such period, the United States land office at San Francisco, Cal., was what the law terms a consolidated land office, and was then—as it now is—one of the largest and one of the most important United States land offices in all of the public-land States or Territories. It would seem that from the 4th of September, 1841, the date of the original preemption act, continuously to March 21, 1864, a period of twenty-three years, the several registers and receivers of all the United States land offices, under a custom not controlled by any regulation issued by the General Land Office in regard thereto, had ever retained the fees deposited with them by private citizens contesting the right of entry to any particular tract of land as compensation for the services rendered by them or by any assistants they might employ for reducing to writing such testimony as was taken before them as judges in such contested land cases.

Congress, on March 21, 1864 (13 Stats., p. 35), in the act amendatory of the homestead law, and for other purposes, used the words as follows, to wit:

"And be it further enacted, That in lieu of the fee allowed by the twelfth section of the preemption act of 4th September, 1841, the register and receiver shall be entitled to \$1 for their services in acting upon preemption claims, and shall be allowed jointly at the rate of 15 cents per hundred words for the testimony which may be reduced by them to writing for claimants in establishing preemption or homestead rights, and regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to this law were issued by the Commissioner of the General Land Office on the 18th of April, 1864, and wherein he instructed said registers and receivers as follows, to wit:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of 15 cents per hundred words for testimony which may be reduced to writing for claimants in establishing preemption or homestead rights." (See 2d Lester, page 254.)

Under the aforesaid instructions, from April 18, 1864, continuously to about 9th of July, 1877, a period of over thirteen years, said registers and receivers further con-

tinued to retain the fees deposited with them for reducing testimony to writing by parties contesting the right of entry to any particular tract of land. Or, in other words, a practice that had rested on custom only from the 4th of September, 1841, to March 21, 1864, became now confirmed by the regulations of the General Land Office of April 18, 1864, issued in the execution of, and for their validity and legality resting upon, said act of Congress of 21st of March, 1864, as said Land Office then construed and decided the law to be.

On the 8th February, 1879, and without any justification in the premises other than the exercise of his right to take a view of the law different from that which had been theretofore taken by his predecessors, the Commissioner of the General Land Office seems to have conceived the idea that the said act of 21st March, 1864, did not mean that which theretofore it had been held to mean, but preferred to decide, as he did, that these fees received by said register and receiver for reducing testimony to writing should be paid by them into the United States Treasury.

But this decision of the General Land Office in the case of said register and receiver at San Francisco was not made final until February 8, 1879, and instead of making said decision on that date relate exclusively to the future, it was made to relate to the past, and to cover a period of time extending continuously from July 1, 1877, to February 19, 1879, the date when said final decision of the General Land Office was received by said register and receiver at San Francisco, and thereby and in consequence of the principle of relation adopted in said decision by the Commissioner of the General Land Office (which principle of relation, properly termed a fiction of law, should never in any case be invoked to the detriment of any person whomsoever), said Receiver Chamberlain was on February 8, 1879, ordered peremptorily to turn into the U. S. Treasury all the fees that had been received by himself and said register for reducing testimony to writing in contested land cases, and covering the period of time from July 1, 1877, to February 19, 1879.

These two officers, to wit, Messrs. Wheaton as register and Chamberlain as receiver, rather than have any difficulty with the Commissioner of the General Land Office, immediately raised this sum and paid the same forthwith into the U. S. sub-treasury at San Francisco, Cal., and of which sum said Receiver Chamberlain paid his one-half and said Register Wheaton his other half, and as the said register told me last autumn, when I saw him and conversed with him on the subject in San Francisco, that so peremptorily did this order come to him that he, like the said receiver, having already expended and paid out his one-half share of said fee, and for work that had ready been done and performed between July 1, 1877, and February 19, 1879, had to go into the open market and borrow that amount in order to turn it into the U. S. Treasury, and had to borrow the same at the rate of 1 per cent per month, and that he still owed a part of this loan which he had thus been compelled unexpectedly to make in order only to keep faith with the United States upon the summary demand of its land authorities.

This matter was immediately thereafter brought to the notice of the honorable Secretary of the Interior, and the grave injustice that was being done these gentlemen having been presented to and considered by him, he caused the following instructions to issue, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1879.

REGISTER and RECEIVER,
San Francisco, Cal.:

GENTLEMEN: By direction of the honorable Secretary of the Interior you are hereby authorized to employ the services of 2 clerks in your office at a compensation of \$100 per month each, from February 1 to June 30, 1879.

The receiver, as disbursing agent, will defray the expenses hereby authorized, referring on his certified vouchers to this letter as A, by its date, as his authority therefor.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Now, if on the 19th of February, 1879, in the judgment of the honorable Secretary of the Interior, it was necessary to have the services of at least 2 clerks in order to aid the said register and receiver in the proper performance of their public duties in the U. S. land office at San Francisco, Cal., and to be paid for by the United States out of the public treasury, it is self-evident that on the day before, and long prior thereto, it was equally necessary for them to have the services of at least 2 clerks (the services of whom have all been paid for by said register and receiver out of the fees which had been deposited with them by private parties for reducing to writing testimony taken in contested cases in which said private parties only were

interested). As a matter of fact these fees did not, and could not, belong to the people of the United States. They were no part of the public receipts or of the public revenues of moneys belonging to or pertaining to the public treasury; but, on the contrary, these fees were the private funds of private parties, by them deposited with said register and said receiver for one purpose only, and that not of a public but of a private character exclusively, to wit, not to go into the U. S. Treasury, but to be kept by said register and said receiver, and to be used and paid out by said register and receiver exclusively for reducing to writing the testimony in the particular contested land cases in which said parties as private contestants were interested, one against the other, and in which the general public had no interest, took no part, and in which they had no concern.

These fees, over which the United States never should have had any control, if once deposited by said receiver or by said register and receiver in the public treasury, could only thereafter be withdrawn therefrom by some proper provision of law; and as Congress had made no such provision of law by which such deposit of fees, if made, could be withdrawn, the very fact of their being deposited would have prevented these private parties, who had advanced such fees, from securing the reducing to writing the testimony requisite to be taken in their private land contests between each other; and thus justice would have been denied them in the very face of the fact that they had deposited these very fees for the specific purpose of having such testimony reduced to writing, and not otherwise.

Thereafter this general subject was brought to the attention of Congress by the Interior Department, and in the report of the Commissioner of the General Land Office, pages 114 and 115 of his report for the fiscal year ending June 30, 1878, and in the words following, to wit:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims, rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

Congress, heeding the recommendation so made by the Interior Department in regard to this subject-matter, proceeded with due diligence, and enacted the law of March 3, 1883, and which is as follows, to wit:

AN ACT in relation to certain fees allowed registers and receivers.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fees allowed registers and receivers for testimony reduced by them to writing for claimants in establishing pre-emption and homestead rights and mineral entries and in contested cases, shall not be considered or taken into account in determining the maximum of compensation of said officers.

"SEC. 2. That registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts, showing what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office; and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed 10 cents per entry; and the sums thus received for the plats and lists shall not be considered or taken into account in determining the maximum of compensation of said officers."

In other words, custom, rules, regulations, and decisions of the General Land Office all give way to a fixed statute, and in which Congress declared its intention in regard to fees so deposited for testimony reduced to writing.

This law of March 3, 1883, while it made provision in regard to the fees for reducing testimony to writing that might be deposited with the several registers and receivers in the future, made no provision for the period between July 1, 1877, and February 19, 1879, so that there was nothing left for Mr. Wheaton and Mr. Chamberlain to do, except that which they have done, to wit, to appear as petitioners before Congress, praying for adequate relief in the premises.

These gentlemen therefore came before the Forty-eighth Congress.

A bill for their relief, to wit, Senate bill No. 325, was introduced by the late Senator Hon. John F. Miller, December 5, 1883, and referred to the Senate Committee on Public Lands. A similar bill in the House, to wit, H. R. No. 82, was introduced by Hon. W. S. Rosecrans, of California, on December 10, 1883, read a first and second time and referred to the Committee on Claims; and, although action thereon was frequently requested by me, it nevertheless there slept the sleep that knew no waking. Senate bill No. 325 was referred to the Interior Department by Senator

Plumb, as Chairman of the Committee on Public Lands, for report; and a report was duly made thereon, and which showed all the facts as well as the equity of this case, and which report is hereto attached and made a part hereof and marked Exhibit No. 1. But no action was ever had by said Senate committee on this report or on this bill during the Forty-eighth Congress. Wherefore these gentlemen again appear now as petitioners before the Forty-ninth Congress, and renew their prayer for relief in the two bills now pending before the Forty-ninth Congress, and in support of which this statement is made.

In further support of this equitable relief I attach hereto and make a part hereof the affidavits of said register, and of said receiver, and of two of their clerks employed between July 1, 1877, and March 31, 1879, and Marked Exhibit No. 2.

This claim is just, and I respectfully submit that it should receive the favorable and early action of the committee charged with its consideration.

Wherefore I move that it may be favorably reported and with a recommendation that the bill do pass.

Respectfully,

JOHN MULLAN,
*Attorney and Counsel for William R. Wheaton, Register, and
Charles H. Chamberlain, ex-Receiver, U. S. Land Office, San Francisco, Cal.*

EXHIBIT NO. 1.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 14, 1884.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, U. S. Senate:

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, inclosing Senate bill No. 325, Forty-eighth Congress, first session, for the relief of W. R. Wheaton and Charles H. Chamberlain, of California, and in reply thereto transmit herewith a copy of the report of the Commissioner of the General Land Office thereon, dated March 31, 1884, with accompanying papers.

Very respectfully,

M. S. JOSLYN,
Acting Secretary.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,
Secretary of the Interior:

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1878, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting in the aggregate to \$5,330.76, which amount was charged to Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (See exhibit herewith marked A.)

This money was so deposited, and April 17, 1879, this office acknowledged the receipt of a certificate of deposit for \$5,181 (see copy of letter herewith marked B), and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of \$149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys.

Section 2255, Revised Statutes, provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assist-

ance, but no authority was given for the employment of clerks, and whatever said expenses may have been the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office, until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of those fees from which they paid the salaries of the clerks necessary to the transaction of the public business (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill 325 without recommendation.

The following-described papers are also transmitted:

A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.

B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. McFARLAND,
Commissioner

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing as admitted in your quarterly fee statements but not credited the United States in your monthly or quarterly accounts current, as follows:

Third quarter 1877.....	\$1,081
Fourth quarter 1877	850
First quarter 1878.....	903
Second quarter 1878	935
Third quarter 1878.....	648
Fourth quarter 1878	764

Making in the aggregate \$5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States and take certificates of deposit in triplicate. The original C. D. you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for \$5,181, covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner

EXHIBIT No. 2.

Sworn statements in support of the bill for the relief of William R. Wheaton and Charles H. Chamberlain.

U. S. LAND OFFICE,
San Francisco, Cal.

For the proper dispatch of the business of this office during the last five years the service of at least two clerks have been constantly required; occasionally we have had to employ three clerks at a time. Up to February 19, 1879, there had been no allowance or provision made for the payment of clerical services other than that provided by the fourth section of the act of March 21, 1864, "An act amendatory of the homestead law, and for other purposes," which section is in the following words:

"And be it further enacted, That in lieu of the fee allowed by the twelfth section of the preemption act of September 4, 1841, the register and receiver shall be entitled to \$1 for their services in acting upon preemption claims, and shall be allowed jointly, at the rate of 15 cents per hundred words, for the testimony which may be reduced by them to writing for claimants, in establishing preemption or homestead rights and regulations for giving proper effect to the provisions of this act, to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to the law were issued by the Commissioner April, 1864, wherein he instructs registers and receivers as follows:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of 16 cents per hundred words, for testimony which may be reduced to writing for claimants in establishing preemption or homestead rights." (See 2d Lester, p. 254.)

Under said instructions the register and receiver, up to February 19, 1879, employed the necessary clerical force, and paid therefor out of the fees authorized to be retained as aforesaid.

In February, 1879, we were ordered to deposit, and did deposit, in the U. S. Treasury, to the credit of the United States, the amount of such fees received by us subsequent to July 1, 1877, amounting to \$5,330.76, notwithstanding we had paid during the said period for the necessary clerical services in reducing testimony to writing, and for which services said fees were received, and no other allowance for clerk-hire having been theretofore made. During this time, in order not to keep witnesses and claimants waiting on expense, much of the work of making up the records was done out of office hours, and the Government received the benefit of this overwork.

The Commissioner of the General Land Office, in his annual report of the fiscal year ending June 30, 1878 (p. 115), made the following recommendation:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

WM. R. WHEATON,
Register.
CHAS. H. CHAMBERLAIN,
Receiver.

STATE OF CALIFORNIA, *City and County of San Francisco*, ss:

William R. Wheaton, register, and Charles H. Chamberlain, receiver, being severally duly sworn, say, and each for himself says, that the foregoing statement is true.

WM. R. WHEATON.
CHAS. H. CHAMBERLAIN.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
U. S. Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco*, ss:

Duncan McNee, being duly sworn, says that he is and has been for six years last past the chief clerk in said land office; that he has read the foregoing statements, and that the same is true of his own knowledge.

DUNCAN MCNEE.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
U. S. Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Alfred P. Pike, being duly sworn, says that he has been employed as a clerk in said land office to reduce testimony to writing during the years 1877, 1878, 1879, 1880, and 1881, and is at this time employed therein at a salary of \$100 per month; that he has read the foregoing statement of the register and receiver, and that the same is true of his own knowledge; and that during said period he has known of the employment by said register and receiver of others besides himself and Duncan McNee, the chief clerk, to reduce testimony to writing.

ALFRED P. PIKE.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
U. S. Commissioner.

EXHIBIT No. 3.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 14, 1884.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, U. S. Senate:

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, inclosing Senate bill No. 325, Forty-eighth Congress, first session, for the relief of W. R. Wheaton and Charles H. Chamberlain, of California, and in reply thereto transmit herewith a copy of the report of the Commissioner of the General Land Office thereon, dated March 31, 1884, with accompanying papers.

Very respectfully,

M. S. JOSLYN,
Acting Secretary.

EXHIBIT No. 4.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,
Secretary of the Interior:

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1878, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting in the aggregate to \$5,330.76, which amount was charged to Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (*See exhibit herewith, marked A.*)

This money was so deposited, and April 17, 1879, this office acknowledged the receipt of a certificate of deposit for \$5,181 (*see copy of letter herewith, marked B*), and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of \$149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys.

Section 2255, Revised Statutes, provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assistance, but no authority was given for the employment of clerks, and whatever said expenses may have been, the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of those fees from which they paid the salaries of the clerks necessary to the transaction of the public busi-

ness (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill No. 325 without recommendation.

The following described papers are also transmitted:

A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.

B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. McFARLAND,
Commissioner.

EXHIBIT No. 5.

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing, as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly accounts current, as follows:

Third quarter, 1877	\$1,081
Fourth quarter, 1877	850
First quarter, 1878	903
Second quarter, 1878	935
Third quarter, 1878	648
Fourth quarter, 1878	764

Making in the aggregate \$5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States, and take certificates of deposit in triplicate. The original certificate of deposit you will forward, as usual, to the Secretary of the Treasury, the duplicate you will send up to this office, that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 6.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, Esq.,
Receiver at San Francisco, Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for \$5,181, covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 7.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1879.

REGISTER AND RECEIVER,
San Francisco, Cal.:

GENTLEMEN: By direction of the honorable Secretary of the Interior you are hereby authorized to employ the services of two clerks in your office, at a compensation of \$100 per month each, from February 1 to June 30, 1879.

The receiver, as disbursing agent, will defray the expense hereby authorized, referring on his certified vouchers to this letter as A, by its date, as his authority therefor.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 8.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., July 9, 1877.

REGISTER AND RECEIVER,
Prescott, Ariz.:

GENTLEMEN: I have to request that, commencing with the present month and continuing regularly from month to month thereafter, you will report to this office in the manner indicated upon the face of the accompanying blank, in addition to other fees, etc., the joint fee at the rate of 22½ cents per one hundred words, authorized by subdivisions 10, 11, and 12, section 2238, U. S. Revised Statutes, for the services of register and receiver in reducing to writing for claimants the testimony adduced in establishing preemption and homestead claims.

If no fees of the class alluded to are received during the month that fact must be noted upon the fee statement.

I am, very respectfully, etc.,

U. J. BAXTER,
Acting Commissioner.

A copy of the foregoing circular letter was also addressed, under date of July 9, 1877, to the registers and receivers at the following land offices, to wit:

Oneida, Idaho.	Los Angeles, Cal.	Walla Walla, Wash.
Helena, Mont.	Susanville, Cal.	Salt Lake City, Utah.
Bozeman, Mont.	Central City, Cal.	Florence, Ariz.
Pioche, Nev.	Fair Play, Colo.	Humboldt, Cal.
Elko, Nev.	Del Norte, Colo.	Sacramento, Cal.
La Grande, Oreg.	Boise City, Idaho.	Visalia, Cal.
The Dalles, Oreg.	Santa Fe, N. Mex.	Shasta, Cal.
Vancouver, Wash.	La Mesilla, N. Mex.	Independence, Cal.
Colfax, Wash.	Eureka, Cal.	Denver, Colo.
Cheyenne, Wyo.	Carson, Nev.	Pueblo, Colo.
Marysville, Cal.	Roseburg, Oreg.	Lake City, Colo.
San Francisco, Cal.	Linkville, Oreg.	Lemhi, Idaho.
Stockton, Cal.	Olympia, Wash.	

A.

[Before the Forty-ninth Congress, first session.]

In the matter of the bill, to wit, Senate No. 988, introduced by Hon. Leland Stanford, and House No. 3227, Forty-ninth Congress, first session, introduced by Hon. Barclay Henley, for the relief of William R. Wheaton and Charles H. Chamberlain.

The bill is as follows, to wit:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, register, and to Charles H. Chamberlain, ex-receiver, of the land office at San Francisco, California, jointly, out of any money in the Treasury not otherwise appropriated, the sum of five thousand three hundred and thirty dollars and seventy-six cents, being the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said register and said ex-receiver."

STATEMENT OF THE CASE.

On July 1, 1877, and continuously thereafter to February 19, 1879, and for many years immediately preceding such period, the United States land office at San Francisco, Cal., was what the law terms a consolidated land office, and was then—as it now is—one of the largest and one of the most important United States land offices in all of the public land States or Territories. It would seem that from the 4th of September, 1841, the date of the original preemption act, continuously to March 21, 1864, a period of twenty-three years, the several registers and receivers of all the United States land offices, under a custom not controlled by any regulation issued by the General Land Office in regard thereto, had ever retained the fees deposited with them by private citizens contesting the right of entry to any particular tract of land as compensation for the services rendered by them or by any assistants they might employ for reducing to writing such testimony as was taken before them as judges in such contested land cases.

Congress, on March 31, 1864 (13 Stats., p. 35), in the act amendatory of the homestead law, and for other purposes, used the words as follows, to wit:

“And be it further enacted, That in lieu of the fee allowed by the twelfth section of the preemption act of 4th September, 1841, the register and receiver shall be entitled to one dollar for their services in acting upon preemption claims, and shall be allowed jointly at the rate of fifteen cents per hundred words for the testimony which may be reduced by them to writing for claimants, in establishing preemption or homestead rights, and regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office.”

The regulations for giving proper effect to this law were issued by the Commissioner of the General Land Office on the 18th of April, 1864, and wherein he instructed said registers and receivers as follows, to wit:

“There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving ‘jointly’ at the rate of 15 cents per hundred words for testimony which may be reduced to writing for claimants in establishing preemption or homestead rights.” (See 2 Lester, p. 254.)

Under the aforesaid instructions, from April 18, 1864, continuously to about 9th of July, 1877, a period of over thirteen years, said registers and receivers further continued to retain the fees deposited with them for reducing testimony to writing by parties contesting the right of entry to any particular tract of land; or, in other words, a practice that had rested on custom only from the 4th of September, 1841, to March 21, 1864, became now confirmed by the regulations of the General Land Office of April 18, 1864, issued in the execution of and for their validity and legality resting upon said act of Congress of March 21, 1864, as said Land Office then construed and decided the law to be.

On the 8th of February, 1879, and without any justification in the premises other than the exercise of his right to take a view of the law different from that which had been theretofore taken by his predecessors, the Commissioner of the General Land Office seems to have conceived the idea that the said act of March 21, 1864, did not mean that which theretofore it had been held to mean, but preferred to decide, as he did, that these fees received by said register and receiver for reducing testimony to writing should be paid by them into the United States Treasury. But this decision of the General Land Office in the case of said register and receiver at San Francisco was not made final until February 8, 1879, and instead of making said decision on that date relate exclusively to the future, it was made to relate to the past, and to cover a period of time extending continuously from July 1, 1877, to February 19, 1879, the date when said final decision of the General Land Office was received by said register and receiver at San Francisco, and thereby and in consequence of the principle of relation adopted in said decision by the Commissioner of the General Land Office (which principle of relation, properly termed a fiction of law, should never in any case be invoked to the detriment of any person whomsoever) said Receiver Chamberlain was on February 8, 1879, ordered peremptorily to turn into the United States Treasury all the fees that had been received by himself and said register for reducing testimony to writing in contested land cases, and covering the period of time from July 1, 1877, to February 19, 1879.

These two officers, to wit, Messrs. Wheaton, as register, and Chamberlain, as receiver, rather than have any difficulty with the Commissioner of the General Land Office, immediately raised this sum, and paid the same forthwith into the United States subtreasury at San Francisco, Cal., and of which sum said Receiver Chamberlain paid his one-half and said Register Wheaton his other half, and as the said register told me last autumn, when I saw him and conversed with him on the subject in San Francisco, that so peremptorily did this order come to him that he, like the said receiver, having already expended and paid out his one-half share of said

fee and for work that had already been done and performed between July 1, 1877, and February 19, 1879, had to go into the open market and borrow that amount in order to turn it into the U. S. Treasury, and had to borrow the same at the rate of 1 per cent per month, and that he still owed a part of this loan which he had thus been compelled unexpectedly to make in order only to keep faith with the United States upon the summary demand of its land authorities.

This matter was immediately thereafter brought to the notice of the honorable Secretary of the Interior, and the grave injustice that was being done these gentlemen having been presented to and considered by him, he caused the following instructions to issue, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1879.

REGISTER AND RECEIVER,
San Francisco, Cal.:

GENTLEMEN: By direction of the honorable Secretary of the Interior you are hereby authorized to employ the services of two clerks in your office, at a compensation of \$100 per month each, from February 1 to June 30, 1879.

The receiver, as disbursing agent, will defray the expenses hereby authorized, referring on his certified vouchers to this letter as "A" by its date as his authority therefor.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Now, if, on the 19th of February, 1879, in the judgment of the honorable Secretary of the Interior, it was necessary to have the services of at least two clerks in order to aid the said register and receiver in the proper performance of their public duties in the United States land office at San Francisco, Cal., and to be paid for by the United States out of the public Treasury, it is self-evident that on the day before, and long prior thereto, it was equally necessary for them to have the services of at least two clerks (the services of whom have all been paid for by said register and receiver out of the fees which had been deposited with them by private parties for reducing to writing testimony taken in contested cases in which said private parties only were interested). As a matter of fact, these fees did not and could not belong to the people of the United States. They were no part of the public receipts or of the public revenues or moneys belonging to or pertaining to the public Treasury; but, on the contrary, these fees were the private funds of private parties, by them deposited with said register and said receiver for one purpose only, and that not of a public but of a private character exclusively, to wit, not to go into the United States Treasury, but to be kept by said register and said receiver and to be used and paid out by said register and receiver exclusively for reducing to writing the testimony in the particular contested land cases in which said parties as private contestants were, interested, one against the other, and in which the general public had no interest, took no part, and in which they had no concern.

These fees, over which the United States never should have had any control, if once deposited by said receiver or by said register and receiver in the public Treasury, could only thereafter be withdrawn therefrom by some proper provision of law; and as Congress had made no such provision of law by which such deposit of fees, if made, could be withdrawn, the very fact of their being deposited would have prevented these private parties, who had advanced such fees, from securing the reducing to writing the testimony requisite to be taken in their private land contests between each other; and thus justice would have been denied them in the very face of the fact that they had deposited these very fees for the specific purpose of having such testimony reduced to writing, and not otherwise.

Thereafter this general subject was brought to the attention of Congress by the Interior Department; and in the report of the Commissioner of the General Land Office, pages 114 and 115 of his report for the fiscal year ending June 30, 1878, and in the words following, to wit:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

Congress, heeding the recommendations so made by the Interior Department in regard to this subject-matter, proceeded with due diligence, and enacted the law of March 3, 1883, and which is as follows, to-wit:

"AN ACT in relation to certain fees allowed to registers and receivers.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the fees allowed registers and receivers for testimony reduced by them to writing for claimants in establishing preemption and homestead rights and mineral entries and in contested cases shall not be considered or taken into account in determining the maximum of compensation of said officers.

"SEC. 2. That registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts, showing what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office, and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed ten cents per entry; and the sums thus received for plats and lists shall not be considered or taken into account in determining the maximum of compensation of said officers."

In other words, custom, rules, regulations, and decisions of the General Land Office all gave way to a fixed statute, and in which Congress declared its intention in regard to fees so deposited for testimony reduced to writing.

This law of March 3, 1883, while it made provision in regard to the fees for reducing testimony to writing that might be deposited with the several registers and receivers in the future, made no provision for the period between July 1, 1877, and February 19, 1879, so that there was nothing left for Mr. Wheaton and Mr. Chamberlain to do except that which they have done, to wit, to appear as petitioners before Congress praying for adequate relief in the premises.

These gentlemen therefore came before the Forty-eighth Congress.

A bill for their relief, to wit, Senate bill No. 325, was introduced by the late Senator Hon. John F. Miller, December 5, 1883, and referred to the Senate Committee on Public Lands. A similar bill in the House, to wit, H. R. No. 82, was introduced by Hon. W. S. Rosecrans, of California, on December 10, 1883, read a first and second time, and referred to the Committee on Claims, and, although action thereon was frequently requested by me, it nevertheless there slept the sleep that knew no waking. Senate bill No. 325 was referred to the Interior Department by Senator Plumb, as chairman of the Committee on Public Lands, for report, and a report was duly made thereon, and which showed all the facts as well as the equity of this case, and which report is hereto attached and made a part hereof and marked Exhibit No. 1. But no action was ever had by said Senate committee on this report or on this bill during the Forty-eighth Congress. Wherefore these gentlemen again appear now as petitioners before the Forty-ninth Congress and renew their prayer for relief in the two bills now pending before the Forty-ninth Congress and in support of which this statement is made.

In further support of this equitable relief I attach hereto and make a part hereof the affidavits of said register and of said receiver, and of two of their clerks employed between July 1, 1877, and March 31, 1879, and marked Exhibit No. 2.

This claim is just, and I respectfully submit that it should receive the favorable and early action of the committee charged with its consideration.

Wherefore I move that it may be favorably reported and with a recommendation that the bill do pass.

Respectfully,

JOHN MULLAN,

Attorney and Counsel for William R. Wheaton, Register, and Charles H. Chamberlain, ex-Receiver, U. S. Land Office, San Francisco, Cal.

EXHIBIT No. 1.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 14, 1884.

Hon. P. B. PLUMB,

Chairman Committee on Public Lands, U. S. Senate:

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, inclosing Senate bill No. 325, Forty-eighth Congress, first session, for the relief of W. R. Wheaton and Charles H. Chamberlain, of California, and in reply thereto transmit herewith a copy of the report of the Commissioner of the General Land Office thereon, dated March 31, 1884, with accompanying papers.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1884.

Hon. H. M. TELLER,

Secretary of the Interior :

SIR: I have to acknowledge the receipt by reference from the Department for report of a letter from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated March 22, 1884, inclosing Senate bill No. 325, for the relief of William R. Wheaton and Charles H. Chamberlain, register and receiver at the land office at San Francisco, Cal., and in reply thereto have to state as follows:

The register and receiver at San Francisco collected during the fiscal years 1877, 1888, and fractional year 1879, as fees for reducing testimony to writing, certain sums of money, amounting in the aggregate to \$5,330.76, which amount was charged to Mr. Chamberlain as receiver, and directed to be deposited to the credit of the United States. (See exhibit herewith marked A.)

This money was so deposited, and on April 17, 1879, this office acknowledged the receipt of a certificate of deposit for \$5,181 (see copy of letter herewith marked B), and Mr. Chamberlain was given credit therefor in the adjustment of his accounts for the first quarter of 1879, and in a further adjustment received credit for the additional sum of \$149.76.

Prior to July 1, 1877, registers and receivers were allowed to retain all fees received by them for reducing testimony to writing and making transcripts of records, out of which they paid for clerk hire and other office expenses.

After July 1, 1877, registers and receivers were directed to account for them in the same manner as they accounted for other public moneys.

Section 2255, Revised Statutes, provides that the Secretary of the Interior may make reasonable allowance for clerk hire in consolidated offices, but prohibits the payment of any clerk whose employment is not first sanctioned by the Secretary.

As a matter of fact, the business of the San Francisco land office was so large at that time that it was impossible for the officers to transact it without clerical assistance, but no authority was given for the employment of clerks, and whatever said expenses may have been the United States paid no part thereof.

No authority was given for the employment of clerks in the San Francisco land office, although it was a consolidated office, until February 19, 1879. Since that time clerks have been employed there and paid by the United States.

While depriving the registers and receivers of the benefit of these fees from which they paid the salaries of the clerks necessary to the transaction of the public business (and there can be no doubt of the necessity for clerks), the United States made no provision for the payment of their salaries from July 1, 1877, to February 1, 1879.

It would seem, therefore, that the registers and receivers are equitably entitled to some relief in the matter; the amount thereof this office is unable to determine. In view, therefore, of the facts in the case, as set forth above, I have to return Senate bill No. 325 without recommendation.

The following-described papers are also transmitted:

A. Copy of letter of this office to C. H. Chamberlain, dated February 8, 1879.

B. Copy of letter of this office to same, dated April 17, 1879.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, Esq.,

Receiver at San Francisco, Cal.:

SIR: From the records of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly account current, as follows:

Third quarter, 1877	\$1,081
Fourth quarter, 1877	850
First quarter, 1878	903
Second quarter, 1878	935
Third quarter, 1878	648
Fourth quarter, 1878	764

Making in the aggregate \$5,181. You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States and take certificates of deposit in triplicate. The original C. D. you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 17, 1879.

C. H. CHAMBERLAIN, ESQ.,
Receiver at San Francisco, Cal.:

SIR: Certificate of deposit No. 324, dated March 31, 1879, for \$5,181, covering amount received by you as fees for reducing testimony to writing from July 1, 1877, to December 31, 1878, has been received as requested in my letter of 8th February last.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT No. 2.

Sworn statements in support of the bill for the relief of William R. Wheaton and Charles H. Chamberlain.

U. S. LAND OFFICE, San Francisco, Cal.

For the proper dispatch of the business of this office during the last five years the services of at least two clerks have been constantly required; occasionally we have had to employ three clerks at a time. Up to February 19, 1879, there had been no allowance or provision made for the payment of clerical services other than that provided by the fourth section of the act of March 21, 1864, "An Act amendatory of the homestead law, and for other purposes," which section is in the following words:

"And be it further enacted, That in lieu of the fee allowed by the 12th section of the pre-emption act of 4th September, 1841, the register and receiver shall be entitled to one dollar for their services in acting upon pre-emption claims, and shall be allowed jointly, at the rate of fifteen cents per hundred words for the testimony which may be reduced by them to writing for claimants, in establishing pre-emption or homestead rights, and regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office."

The regulations for giving proper effect to the law were issued by the Commissioner April, 1864, wherein he instructs registers and receivers as follows:

"There is another service, however, contemplated in said fourth section which involves personal labor and perhaps occasional clerical assistance, which is not to be accounted for as fees constituting a source of revenue, and that is the authority the said section gives the register and receiver for receiving 'jointly' at the rate of 15 cents per hundred words for testimony which may be reduced to writing for claimants in establishing preemption or homestead rights." (See 2d Lester, p. 254.)

Under said instructions the register and receiver, up to February 19, 1879, employed the necessary clerical force, and paid therefor out of the fees authorized to be retained as aforesaid.

In February, 1879, we were ordered to deposit, and did deposit in the United States Treasury, to the credit of the United States, the amount of such fees received by us subsequent to July 1, 1877, amounting to \$5,330.76, notwithstanding we had paid during the said period for the necessary clerical services in reducing testimony to writing, and for which services said fees were received, and no other allowance for clerk hire having been theretofore made. During this time, in order not to keep witnesses and claimants waiting on expense, much of the work of making up the records was done out of office hours, and the Government received the benefit of this overwork.

The Commissioner of the General Land Office, in his annual report for the fiscal year ending June 30, 1878 (p. 115), made the following recommendation:

"The services for which these moneys are received are over and above the ordinary duties of the register and receiver, the performance thereof involves personal labor

and frequently requires clerical assistance to be employed by the officers for the purpose, and the moneys are to be viewed as in the nature of expenses incident to the prosecution of the claims, rather than fees. I regard it as a hardship to compel the district officers to charge up the same against their maximum compensation, and recommend legislation to relieve them therefrom."

WM. R. WHEATON,
Register.
CHAS. H. CHAMBERLAIN,
Receiver.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

William R. Wheaton, register, and Charles H. Chamberlain, receiver, being severally duly sworn, say, and each for himself says, that the foregoing statement is true.

WM. R. WHEATON,
CHAS. H. CHAMBERLAIN.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
U. S. Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Duncan McNee, being duly sworn, says that he is, and has been for six years last past, the chief clerk in said land office; that he has read the foregoing statements, and that the same is true of his own knowledge.

DUNCAN MCNEE.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
U. S. Commissioner.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Alfred P. Pike, being duly sworn, says that he has been employed as a clerk in said land office to reduce testimony to writing during the years 1877, 1878, 1879, 1880 and 1881, and is at this time employed therein at a salary of \$100 per month; that he has read the foregoing statement of the register and receiver, and that the same is true of his own knowledge; and that during said period he has known of the employment by said register and receiver or others besides himself and Duncan McNee, the chief clerk, to reduce testimony to writing.

ALFRED P. PIKE.

Subscribed and sworn to before me this 30th day of March, 1882.

[SEAL.]

THEO. REICHERT,
U. S. Commissioner.

For the relief of William R. Wheaton and Charles H. Chamberlain, of California. Introduced by Mr. Dolph and referred to Committee on Public Lands, 11.

Reported back (S. Report 2397), 103.

Passed Senate, 407.

Passed House, 543.

Examined and signed, 567, 573.

Vetoed by President, 1003.

Referred to Senate Committee on Public Lands, 1004.

Passed the Senate over the President's veto: Ayes, 35; nays, 8—2488.

The PRESIDENT *pro tempore*. A quorum being present, further proceedings under the call will be dispensed with, if there be no objection.

W. R. WHEATON AND C. H. CHAMBERLAIN—VETO MESSAGE.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read:

"To the Senate:

"I return without approval Senate bill No. 3646, entitled 'An Act for the relief of William R. Wheaton and Charles H. Chamberlain, of California.'

"These parties were respectively, for a number of years prior to 1879, the register and receiver of the land office at San Francisco, in the State of California.

"Prior to July, 1877, they had collected and retained, apparently without question, certain fees allowed by law for reducing to writing the testimony heard by them in establishing the rights of claimants to public lands.

"On the 9th day of July, 1877, these officials were notified by the Acting Commissioner of the General Land Office that monthly thereafter, and dating from July 1, 1877, such fees should be reported with other fees to the General Land Office.

"This notification furnished clear information that whatever may have been the justification for their retention of these fees in the past the parties notified must thereafter account to the Government for the same.

"On the 8th day of February, 1879, the beneficiaries were peremptorily required by the Commissioner of the General Land Office to deposit in the Treasury of the United States the sums which they had received for the services mentioned since July 1, 1877, and which, though reported, had not been paid over. Soon thereafter, and pursuant to this demand, the sum of \$5,330.76, being the aggregate of such fees for the nineteen months between July 1, 1877, and February 1, 1879, was paid over to the Government.

"On the 19th day of February, 1879, these officers were authorized to employ two clerks, each upon a salary of \$100 per month.

"The purpose of the bill now under consideration is to restore to the beneficiaries from the money paid over to the Government, as above stated, the sum of \$3,800. This is proposed upon the theory that clerks were employed by the register and receiver to do the work for which the fees were received, and that these officials having paid them for their services they should be reimbursed from the fund.

"It will be observed that whatever services were performed by clerks in the way of writing down testimony, and paid for by the beneficiaries, were performed and paid for after July, 1877, and after they had in effect received notice that such employment and payment would not be approved by the Government.

"Upon this statement the claim covered by the bill can hardly be urged on legal grounds, whatever the Government may have allowed prior to such notice.

"I am decidedly of the opinion that the relations, the duties, and the obligations of subordinates in public employment should be clearly defined and strictly limited. They should not be permitted to judge of the propriety or necessity of incurring expenses on behalf of the Government without authority, much less in disregard of orders. And yet there are cases when, in an emergency, money is paid for the benefit of the public service by an official which, though not strictly authorized, ought, in equity, to be reimbursed.

"If there is any equity existing in favor of the beneficiaries named in the bill herewith returned, it is found in the fact that during the nineteen months from the 1st day of July, 1877, to the 1st day of February, 1879, they paid out certain moneys for which the Government, in the receipt of the fees which they paid over, received the benefit. Manifestly such equity in this case, if it can be claimed at all in view of the facts recited, is measured by the sum actually paid by these officials to the persons, if such there were, who did the work from which the fees arose which were paid over to the Government.

"In other words, if certain clerks were paid by the beneficiaries from their private funds for doing this work, there should be a distinct statement of the sum so paid, and their claim should rest upon indemnity and reimbursement alone. But no such statement appears, so far as I can see from an examination of papers presented to me by the Interior Department and from the report of the Senate committee who reported this bill, except as it may be gathered from the rather indirect allegations contained in a paper prepared by counsel.

"No vouchers have ever been received at the General Land Office for money paid for clerical services rendered during the period for which reimbursement is sought. The verified statement of the claimants annexed to the committee's report contains only the allegation that they paid for the necessary clerical services, and the affidavits of the clerks themselves furnish no clew to the amount they received. Such an omission, in my opinion, discredits the claim made, and the allowance of the sum of \$100 per month for two clerks during the period of nineteen months covered by this claim, because that was the sum authorized to be paid thereafter for clerks' services, is, it seems to me, adopting a standard entirely inapplicable to the subject.

"In any event these beneficiaries should be required to establish the sum necessary for such indemnification, and the amount appropriated for their relief should be limited to that sum.

"GROVER CLEVELAND.

"EXECUTIVE MANSION, *January 17, 1889.*"

The President *pro tempore*. Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. Platt. May I inquire what bill it is that the President objects to?

The President *pro tempore*. The bill will be read.

The Chief Clerk read the bill, as follows:

"Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay to William R. Wheaton, ex-register, and to Charles H. Chamberlain, ex-receiver, of the land office at San Francisco, Cal., jointly, out of any money in the Treasury not otherwise appropriated, the sum of \$3,800, being a portion of the amount deposited in the Treasury of the United States by them as fees for testimony which was taken by clerks whose compensation was paid from the private funds of said ex-register and said ex-receiver."

Mr. Stewart. I move that the bill and veto message be referred to the Committee on Claims.

The President *pro tempore*. The bill and the message will be referred to the Committee on Claims, if there be no objection.

Mr. Berry. Did not the bill come from the Committee on Public Lands?

The President *pro tempore*. The Chair will have the files examined to ascertain.

Mr. Berry. I am of the opinion that it came from that committee.

Mr. Dolph. By direction of the Committee on Public Lands I report back the bill (S. 3646) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, with the President's veto message, and recommend that the bill be passed notwithstanding the veto.

This bill has twice passed both branches of Congress at the present session. At the first session it failed because it was not signed by the President and was received by him within ten days of the adjournment. At the present session it was vetoed. It was vetoed upon the supposition or fact, whichever the case may be, that the testimony showed that certain clerks had been employed by the claimants, who were register and receiver of a land office in California during a period named, and that when the Government came to act upon the matter and clerks were authorized to be employed \$100 a month was allowed by the Government, but that there was no showing that the register and receiver had, during the time for which the compensation was claimed for clerk-hire, paid out that sum.

I have since received an affidavit from one of the clerks who was employed, stating that he did receive during the period mentioned \$100 a month, and that another clerk named, who is now out of the country, and whose affidavit can not be obtained, received \$100 a month paid by these parties, covering the precise point of objection made by the Executive.

I may say that I report the bill back with this recommendation with the consent, at least, of all the members of the Committee on Public Lands who are in the city. I ask to have the affidavit read and that the vote be then taken upon the passage of the bill.

The President *pro tempore*. The Senator from Oregon asks for the present consideration of the report?

Mr. Dolph. I do.

The President *pro tempore*. Is there objection? The question is, Shall the bill pass, notwithstanding the objections of the President of the United States? The Secretary will call the roll.

Mr. Dolph. I ask for the reading of the affidavit to which I referred.

Mr. Hale and others. Let it go.

Mr. Dolph. Very well; let it go.

The President *pro tempore*. The roll will be called on the question, Shall the bill pass, notwithstanding the objections of the President of the United States?

The Secretary proceeded to call the roll.

Mr. Faulkner (when his name was called). I am paired with the junior Senator from Pennsylvania [Mr. Quay].

The roll call was concluded.

Mr. Wilson, of Iowa. I am paired with the Senator from Maryland [Mr. Wilson], and therefore withhold my vote. Otherwise I should vote "yea."

Mr. George (after having voted in the negative). Is the name of the Senator from New Hampshire [Mr. Blair] recorded?

The President *pro tempore*. It is not recorded.

Mr. George. I withdraw my vote.

The President *pro tempore*. The Senator from Mississippi withdraws his vote.

Mr. Sawyer (after having voted in the affirmative). Is the name of the Senator from Delaware [Mr. Saulsbury] recorded?

The President *pro tempore*. It is not recorded.

Mr. Sawyer. Then I withdraw my vote.

The President *pro tempore*. The Senator from Wisconsin withdraws his vote.

The result was announced—yeas, 35; nays, 8, as follows:

YEAS—35.

Allison,	Dolph,	Ingalls,	Ransom,
Butler,	Evarts,	Jones of Nevada,	Sherman,
Call,	Farwell,	Mitchell,	Spooner,
Cameron,	Gibson,	Morgan,	Stanford,
Chandler,	Gorman,	Morrill,	Stewart,
Cullom,	Hale,	Paddock,	Stockbridge,
Daniel,	Hampton,	Payne,	Teller,
Davis,	Hiscock,	Platt,	Walthall.
Dawes,	Hoar,	Plumb,	

NAYS—8.

Bate,	Harris,	Pasco,	Reagan,
Coke,	Jones of Arkansas,	Pugh,	Turpie.

ABSENT—33.

Aldrich,	Cockrell,	Hearst,	Sawyer,
Beck,	Colquitt,	Kenna,	Vance,
Berry,	Edmunds,	McPherson,	Vest,
Blackburn,	Eustis,	Manderson,	Voorhees,
Blair,	Faulkner,	Palmer,	Wilson of Iowa,
Blodgett,	Frye,	Quay,	Wilson of Md.
Bowen,	George,	Riddleberger,	
Brown,	Gray,	Sabin,	
Chace,	Hawley,	Saulsbury,	

The PRESIDENT *pro tempore*. Two-thirds of the Senators present having voted therefor the bill is passed, notwithstanding the objections of the Executive.

STATE OF CALIFORNIA,

City and County of San Francisco, ss :

Duncan McNee, being first duly sworn, deposes and says that he is forty years of age and a resident of San Francisco, Cal.; that he was clerk in United States land office, San Francisco, Cal., continuously from June 15, 1868, to September 1, 1886; that he commenced as such clerk under Charles H. Chamberlain, receiver, and served until after the expiration of said Chamberlain's term.

That he served for ten years under William R. Wheaton, register; that during the years 1877, 1878, 1879, 1880, and 1881 said Wheaton was register and said Chamberlain was receiver of said office.

That during said years he (McNee) received and was paid by said Wheaton and Chamberlain, register and receiver as aforesaid, the sum of \$100 per month, and he knows that the money so paid him for the period July 1, 1877, to February 1, 1879, was not paid by the United States, but was paid by said Wheaton and Chamberlain personally.

Affiant further swears that said Wheaton and Chamberlain had as clerks during said period (July 1, 1877, to February 1, 1879) other clerks, and especially one Alfred P. Pike, and that said Pike was also paid by said officers the sum of \$100 each month from July 1, 1877, to February 1, 1879.

Said Pike is not in this vicinity at present, so that his affidavit can not be obtained.

DUNCAN MCNEE.

Subscribed and sworn to before me on this 11th day of February, A. D. 1889.

LEE D. CRAIG,
Notary Public.

B.

CLAIM FOR FEES.

[Register and receiver at San Francisco.]

DEPARTMENT OF THE INTERIOR,
Washington, February 3, 1894.

SIR: I received, through your reference, Senate bill No. 1057, and sent the same to the Commissioner of the General Land Office.

I have the honor now to inclose herewith a copy of the report of that officer, under date of January 9, 1894, with accompanying papers.

The bill proposes to pay to Messrs. Wheaton and Chamberlain, ex-register and ex-receiver, respectively, of the land office at San Francisco, a certain sum of money for testimony taken by clerks in said office and alleged to have been paid for by said officers out of their private funds. For the very cogent reasons presented by the Commissioner of the General Land Office in his said report, I decline to recommend the passage of the bill; the claim of the parties being, in my opinion, entirely without merit, and likely to establish a precedent for the payment of large sums of money from the Treasury on similar unjust claims.

Very respectfully,

HOKE SMITH,
Secretary.

Hon. JAMES H. BERRY,
Senate Committee on Public Lands.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 9, 1894.

SIR: I have to acknowledge the receipt, by reference from the Department for report, of a letter from the Hon. James H. Berry, chairman of the Senate Committee on Public Lands, dated October 9, 1893, inclosing Senate bill No. 1057, for the relief of William R. Wheaton and Charles H. Chamberlain, ex-register and ex-receiver of the land office at San Francisco, Cal., and in reply thereto have to state as follows:

Subdivisions 10 and 12 of section 2238, Revised Statutes, became a law March 21, 1864. By the former registers and receivers are allowed jointly at the rate of 15 cents per hundred words for testimony reduced by them to writing for claimants in establishing preemption and homestead rights, and by the latter the rate in California and other States mentioned was fixed at 22½ cents per hundred words. Sec. 2240, R. S., April 20, 1818 limits the compensation of registers and receivers, including salary, fees, and commissions, to not exceeding \$3,000 a year each.

April 18, 1864, J. M. Edmunds, Commissioner of the General Land Office, in general circular advised registers and receivers that the compensation for reducing testimony to writing provided for in subdivision 10, section 2238, Revised Statutes, was "not to be accounted for as fees constituting a source of revenue."

This construction of the statute remained in force until July 9, 1877.

The Commissioner of the General Land Office, in his report for the fiscal year ending June 30, 1878, p. 214, uses the following language:

"Prior to the last fiscal year the joint fees allowed registers and receivers for reducing testimony to writing in establishing preemption, homestead, and mineral rights (subdivisions 10 and 11, section 2238, Revised Statutes) were not required to be accounted for by the receivers of public moneys. On July 9, 1877, this office, after careful consideration, decided that under the law as it now stands these fees should be accounted for as other fees and commissions."

By circular letter from the General Land Office, dated July 9, 1877 (see exhibit herewith, marked A), the register and receiver at San Francisco were advised to report, in addition to other fees, etc., the joint fee at the rate of 22½ cents per 100 words authorized by subdivisions 10, 11, and 12, section 2238, U. S. Revised Statutes, for the services of register and receiver in reducing to writing for claimants the testimony adduced in establishing preemption and homestead claims. In conformity to said instructions the receiver at San Francisco reported monthly from July 1, 1877, to January 31, 1879, as follows (the notes and explanations being his, except the words "including contest cases" after first report, which appear to have been inserted in this office):

"July, 1877, register and receiver's fees for reducing testimony to writing, \$480, sub. 10, 11, 12, sec. 2238, R. S.

(Including contest cases.)

"August, 1877, register and receiver's fees received for reducing testimony to writing, \$255.

"September, 1877, fees collected by register and receiver on proving homestead and preemption rights, \$346.

"October, 1877, fees collected by register and receiver for taking down testimony on homestead and preemption cases, \$415.

"November, 1877, fees collected by register and receiver for taking down testimony on homestead and preemption cases, \$435.

"January, 1878, register and receiver received for taking down testimony in homestead and preemption cases \$260.

"February, 1878, received for taking testimony, \$360. This amount is retained in hands of register and receiver to await final order of the Department.

"March, 1878, received for taking testimony in homestead and preemption cases, \$283. This amount is retained by register and receiver subject to final order of the Department.

"April, 1878, received for taking testimony, \$310. This amount is retained by register and receiver subject to the final order of the Department.

"May, 1878, received for taking testimony in homestead and preemption proof, \$368. This amount is retained by register and receiver subject to the final order of the Department.

"June, 1878, received for taking testimony, \$257. This amount is retained by register and receiver subject to the final order of the Department.

"July, 1878, received for taking testimony, \$208. This amount is retained by register and receiver, subject to the final order of the Department.

"No fees received under section 2239, Revised Statutes.

"August, 1878, received for taking testimony in homestead and preemption cases, \$208.

"No fees received under section 2239, Revised Statutes.

"September, 1878, received for taking testimony in homestead and preemption cases, \$232.

"No fees received under section 2239, Revised Statutes. This amount is retained by register and receiver as more fully set forth in certificate hereon:

"Certificate—Except that the receiver has received only half the fees for taking testimony and the register the other half, and said fees are retained by each in the office subject to formal decision of the Department as to the right to use the same in payment of clerical services for which purpose they have been retained.

"October, 1878, received for taking testimony in homestead and preemption claims, \$290.

"No fees received under section 2239, Revised Statutes.

"November, 1878, received for taking testimony in homestead and preemption claims, \$281.

"No fees received under section 2239, Revised Statutes. This amount is retained in hands of register and receiver to await final order of the Department.

"December, 1878, received for taking testimony in homestead and preemption claims, \$193.

"No fees received under section 2239, Revised Statutes.

"January, 1879, received for taking testimony in proving up homestead and preemption claims, \$150.

"No fees received under section 2239, Revised Statutes."

Making a total of \$5,331.

These receipts were not credited to the United States by the receiver in his accounts current, but were charged to him in the quarterly adjustment by this office, and he was notified from time to time of the balance due from him.

By letter dated February 8, 1879 (*see* copy herewith marked Exhibit B), the then Commissioner of the General Land Office advised Receiver Chamberlain of the amount found due from him on account of such receipts for each quarter from July 1, 1877, to December 31, 1878, and instructed him to deposit the whole amount, \$5,181, to the credit of the Treasurer of the United States.

Such deposit of said \$5,181 was made March 31, 1879, and subsequently on account of such fees received during the month of January, 1879, a further deposit of \$149.76 was made, amounting in all to \$5,330.76.

Under date of October 18, 1877, Senator A. A. Sargent addressed a letter to this office (*see* copy herewith marked Exhibit C) inclosing a letter from the register and receiver at San Francisco, dated October 9, 1877 (*see* copy herewith marked Exhibit D), in which the order of July 9 is objected to and the former practice insisted upon. From the letter dated October 9, it appears that the clerks employed in the San Francisco office were not only required to "take down testimony," but to "keep the records and reply to Department routine letters." It is possible that the condition of business in the San Francisco office between July 1, 1877, and January 31, 1879, demanded the services of one or more clerks. During that period there were made at that office 674 cash entries, 635 military bounty locations, and 303 final homestead entries. Of course the final-proof testimony in all these entries was not reduced to writing in the office, but the fee of 22½ cents per hundred words as reported included the fee for reducing to writing the testimony in such of the military bounty and cash entries as were made in preemption claims and commuted homesteads and written in the office, and on all the final homesteads, whether reduced to writing in the office or elsewhere, as well as the testimony in contest cases.

San Francisco was a consolidated office, and section 2255, Revised Statutes, authorized the Secretary of the Interior to grant a reasonable allowance for office rent and

clerk hire in such offices, but Messrs. Wheaton and Chamberlain appear to have acted wholly on their own responsibility in the employment of clerical assistance, and not until January 11, 1879, was application made for such allowance. Under that date they addressed a letter to the Commissioner of the General Land Office (see copy herewith marked Exhibit E), in which they ask that for the fiscal year 1879 they be allowed, for two clerks, the sum of \$100 each per month, and submitted receipted bills for clerk hire during the fiscal year 1878 aggregating \$2,440 (see copies herewith marked Exhibit F) and asked that the same be then allowed.

In response to this letter, under date February 19, 1879, the employment of two clerks was authorized, at \$100 per month each, from February 1 to June 30, 1879, but no further response appears to have been made to the application.

Inasmuch as the register and receiver acted on their own responsibility in the employment of these clerks, and the then Acting Secretary of the Interior and Commissioner of the General Land Office did not see proper to grant or recommend the relief asked for, I am not now disposed to recommend the passage of Senate bill 1057.

I might add that, in my judgment, any equities that may favor the passage of this bill are largely offset by the fees for reducing testimony to writing which were received by these officers and not accounted for during the years of their service preceding July 1, 1877, under what is now admitted to have been an erroneous construction of the law.

I will state further that the register and receiver at San Francisco failed to report any receipts for reducing testimony to writing during the month of December, 1877, and, although the business transacted in the office during that month shows that fees must have been collected, the register and receiver never have been charged with such receipts.

Under the statutes, as before stated, it was the duty of the Secretary of the Interior to allow clerk hire for these offices when in his judgment it was found necessary and proper. It is to be presumed that this duty was duly discharged and that proper allowances were made accordingly. If application therefor was not made by the ex-register and ex-receiver to the then Secretary at the proper time they can not now complain of any failure on his part to make allowances for clerk hire. The clerks alleged to have been employed by this office, without such allowance, and therefore without authority of law, would seem to have been employed not merely for the particular services for which the fees in question were received, but for general office duty.

The present application for Congressional relief appears to be in the nature of an appeal from the action or nonaction of the Secretary in not allowing clerk hire for which the register and receiver had not applied. At the same time the register and receiver do not propose to have the failure of the Department to require an account for such fees received by them prior to July, 1879, which inured to their advantage and the disadvantage of the Government, inquired into, in order to determine to what, if any, measure of relief they may be equitably entitled. Hence, as before stated, I am not prepared to favor the passage of this bill.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Hon. HOKE SMITH,
Secretary of the Interior.

EXHIBIT A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., July 9, 1877.

REGISTER AND RECEIVER,
Prescott, Ariz.:

GENTLEMEN: I have to request that, commencing with the present month, and continuing regularly from month to month thereafter, you will report to this office in the manner indicated upon the face of the accompanying blank, in addition to other fees, etc., the joint fee at the rate of 22½ cents per hundred words, authorized by subdivisions 10, 11, and 12, section 2238, U. S. Revised Statutes, for the services of register and receiver in reducing to writing for claimants the testimony adduced in establishing preemption and homestead claims.

If no fees of the class alluded to are received during the month that fact must be noted upon the fee statement.

I am, very respectfully, etc.,

U. J. BAXTER,
Acting Commissioner.

A copy of the foregoing circular letter was also addressed, under date of July 9, 1877, to the registers and receivers at the following land offices, to wit:

Oneida, Idaho.	Los Angeles, Cal.	Walla Walla, Wash.
Helena, Mont.	Susanville, Cal.	Salt Lake, Utah.
Bozeman, Mont.	Central City, Cal.	Florence, Ariz.
Pioche, Nev.	Fair Play, Colo.	Humboldt, Cal.
Elko, Nev.	Del Norte, Colo.	Sacramento, Cal.
La Grande, Oreg.	Boise City, Idaho.	Visalia, Cal.
The Dalles, Oreg.	Santa Fe, N. Mex.	Shasta, Cal.
Vancouver, Wash.	La Mesilla, N. Mex.	Independence, Cal.
Colfax, Wash.	Eureka, Cal.	Denver, Colo.
Cheyenne, Wyo.	Carson, Nev.	Pueblo, Colo.
Marysville, Cal.	Roseburg, Oreg.	Lake City, Colo.
San Francisco, Cal.	Linkville, Oreg.	Lemhi, Idaho.
Stockton, Cal.	Olympia, Wash.	

EXHIBIT B.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1879.

C. H. CHAMBERLAIN, ESQ.,
Receiver at San Francisco, Cal.:

SIR: From the receipts of this office it appears that you have been debited in the adjustment of your quarterly accounts current with fees received for reducing testimony to writing, as admitted in your quarterly fee statements, but not credited the United States in your monthly or quarterly accounts current, as follows:

Third quarter 1877	\$1,081
Fourth quarter 1877.....	850
First quarter 1878.....	903
Second quarter 1878.....	935
Third quarter 1878	648
Fourth quarter 1878.....	764

Making, in the aggregate, \$5,181.

You are hereby instructed to deposit the whole amount to the credit of the Treasurer of the United States, and take certificates of deposit in triplicate. The original certificate of deposit you will forward as usual to the Secretary of the Treasury, the duplicate you will send up to this office, that I may know this order has been complied with, and the triplicate you will keep as your own voucher.

This is the final conclusion and decision of the office in this matter, and you will please in future deposit similar fees with the other receipts of your office and credit the United States therewith in your monthly and quarterly accounts current.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

EXHIBIT C.

U. S. SENATE CHAMBER,
Washington, October 18, 1877.

Hon. J. A. WILLIAMSON,
Commissioner General Land Office:

SIR: Enclosed please find a letter from William R. Wheaton, register of the land office, San Francisco, Cal., referring to the fees collected for copying testimony.

I entirely agree with the view taken by Mr. Wheaton in this letter, and I don't see how it would be possible for the land offices in San Francisco to pay clerks, rents, etc., out of the maximum salary allowed by law. I trust that no action will be taken of the kind suggested unless you are satisfied that the uniform course of proceedings under yourself and others for years past has been an error, for I am very well satisfied that it will cripple the business of the office and be an injury to the public service.

Will you please give me your views upon the matter?

Respectfully,

H. Rep. 4—49

A. A. SARGENT.

EXHIBIT D.

U. S. LAND OFFICE, *San Francisco, Cal., October 9, 1877.*Hon. AARON A. SARGENT,
Washington, D. C. :

MY DEAR FRIEND: The Acting Commissioner of the General Land Office has recently issued an order requiring the local officers to report the amount received by them for taking testimony, and, although no order has yet been made to pay it over, we understand that Baxter, the chief clerk of the Land Office, holds that we are bound to pay over the money, contrary to what has ever been the instructions heretofore. Commissioner Jos. Wilson held that the 22½ cents per folio was payment for clerical services and in lieu of salaries for clerks and other necessary expenses. Baxter holds that we must pay our clerks, etc., out of the \$3,000. In that case the more business there is to do the less the register and receiver would receive, as they would have the more clerks to hire and pay, or else the business of the office would be crippled and always behind hand.

It takes the register's time to answer letters and give information by letter in reference to the condition of land and the manner of acquiring title thereto and in looking over testimony. The receiver's time is taken up principally in examining cases and in answering questions in the office in reference to lands, so that clerks have to be employed to take down testimony and to keep the records and to reply to Department routine letters.

If we have to pay over to the Treasury what we receive from reducing testimony to writing, and which is now chiefly paid by us to clerks, and are still obliged to hire clerks and pay them out of the \$3,000 the Commissioner proposes to limit to the income of the officers, there will be but a clerk's pay for the register and receiver.

Relying upon the justice of my views of this matter, I have to solicit your interposition to prevent the threatened change, as I am well assured that the interests of the Department will be best subserved by the continuance of the construction heretofore placed upon the law by the commissioners.

Very truly, your friend and obedient servant,

WM. R. WHEATON,
Register.

I concur.

C. H. CHAMBERLAIN,
Receiver.

EXHIBIT E.

U. S. LAND OFFICE, *San Francisco, Cal., January 11, 1879.*Hon. J. A. WILLIAMSON,
Commissioner General Land Office:

SIR: The undersigned register and receiver of the United States land office at San Francisco, Cal., represent that the business of said office requires and always has required, since they have held said office, the assistance of two clerks in addition to the whole time of the register and receiver.

That under former instructions they were allowed to use the fees for taking testimony to pay for clerical services, but that since July 1, 1877, they have been required to report such fees, and the same have been charged against the receiver, while they, the register and receiver, have been obliged to pay clerks for taking such testimony.

We would also call attention to the fact that by the instructions we have been treated as a consolidated office, and therefore entitled under the law to clerks in the discretion of the Department. We therefore ask that we may be allowed the amount paid by us for clerk hire during the fiscal year ending June 30, 1878, according to the receipted bills herewith presented, and that for the present fiscal year we may be allowed for two clerks the sum of \$100 each per month.

In addition to payment of clerk hire above stated, we have paid as per vouchers inclosed, rent for July, August, and September, 1877, at \$75 per month, \$225; also additional clerk hire (as per voucher inclosed) in December, 1877, \$40, and for janitor's services from July 1, 1877, to July 1, 1878, \$150, besides sundry amounts for coal, lights, etc.

Very respectfully,

WM. R. WHEATON,
Register.
CHAS. H. CHAMBERLAIN,
Receiver.

U. S. LAND OFFICE, *San Francisco, Cal., June 30, 1878.*

William R. Wheaton, register, to Duncan McNee, Dr.

For services rendered as clerk in the office of the register and receiver, San Francisco, Cal., for the year ending June 30, 1878, at \$100 per month..... \$1, 200
Received payment,

DUNCAN MCNEE.

U. S. LAND OFFICE, *San Francisco, Cal., June 30, 1878.*

Received of William R. Wheaton and Charles H. Chamberlain, register and receiver U. S. land office, San Francisco, Cal., \$40 in the month of December, 1877, for ten days' clerical services performed by me in said office during that month.

WM. H. CHAMBERLAIN.

\$40.

EXHIBIT F.

U. S. LAND OFFICE, *San Francisco, Cal., June 30, 1878.*

William R. Wheaton, register, and Charles H. Chamberlain, receiver, to Alfred P. Pike, Dr.

For services as clerk in the office of register and receiver San Francisco, Cal., for the year ending June 30, 1878, at \$100 per month..... \$1, 200
Received payment,

ALFRED P. PIKE.

Senate Mis. Doc. No. 187, Fifty-third Congress, second session.

Mr. DOLPH presented the following

LETTER FROM THE COMMISSIONER OF THE LAND OFFICE, RELATIVE TO CLAIM OF WHEATON & CHAMBERLAIN, OF CALIFORNIA, ACCOMPANIED BY STATEMENT OF SALARIES, FEES, AND COMMISSIONS RECEIVED BY THE REGISTERS AND RECEIVERS FROM ALL SOURCES AT THE U. S. LAND OFFICES IN ALABAMA, ARKANSAS, DAKOTA, FLORIDA, IOWA, KANSAS, LOUISIANA, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, NEBRASKA, WISCONSIN.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 31, 1894.

SIR: I am in receipt of your letter of the 4th instant, in which you request certain information relative to the land offices in Alabama, Arkansas, Dakota, and other States named, covering the period from July 9, 1877, to February 8, 1879; also requesting certain other information relative to the action of this office and of the honorable Secretary the Interior relative to the joint fee for reducing testimony to writing in establishing homestead and preemption claims.

In reply, I have the honor to state that the letter referred to by you, a printed copy of which appears in your letter, was not addressed to the offices named in your inquiry, but that a similar letter, addressed to the register and receiver at Huntsville, Ala., was addressed under the same date to all the offices named in your letter.

The following is a copy of such letter, with appended note:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., July 9, 1877.

GENTLEMEN: I have to request that, commencing with the present month and continuing regularly from month to month thereafter, you will be particular to report to this office, in the manner indicated on the face of the accompanying blank, in addition to the other fees, etc., the joint fee, at the rate of 15 cents per hundred words, authorized by subdivisions 10 and 11, section 2238, U. S. Revised Statutes, for the services of the register and receiver in reducing to writing for claimant the testimony adduced in establishing preemption and homestead claims, etc. If no fees of the character alluded to are received during the month that fact must appear on the fee statement.

I am, very respectfully, etc.,

U. J. BAXTER,
Acting Commissioner.

REGISTER AND RECEIVER,
Huntsville, Ala.

A letter similar to the above, dated July 9, 1877, was sent to each of the following U. S. land offices:

Montgomery, Ala.	Salina, Kans.	Marquette, Mich.	Springfield, Mo.
Mobile, Ala.	Independence, Kans.	Traverse City, Mich.	Jackson, Miss.
Little Rock, Ark.	Wichita, Kans.	Fergus Falls, Minn.	Beatrice, Nebr.
Camden, Ark.	Concordia, Kans.	Duluth, Minn.	Niobrara, Nebr.
Harrison, Ark.	Kirwin, Kans.	St. Cloud, Minn.	Grand Island, Nebr.
Dardanelle, Ark.	Larned, Kans.	New Ulm, Minn.	Lincoln, Nebr.
Gainesville, Fla.	Hays City, Kans.	Taylor's Falls, Minn.	Norfolk, Nebr.
Sioux Falls, S. Dak.	New Orleans, La.	Worthington, Minn.	North Platte, Nebr.
Springfield, S. Dak.	Natchitoches, La.	Benson, Minn.	Bloomington, Nebr.
Yankton, S. Dak.	Monroe, La.	Detroit, Minn.	Bayfield, Wis.
Bismarck, N. Dak.	Detroit, Mich.	Redwood Falls, Minn.	Eau Claire, Wis.
Fargo, N. Dak.	East Saginaw, Mich.	Boonville, Mo.	St. Croix Falls, Wis.
Des Moines, Iowa.	Iona, Mich.	Iron-ton, Mo.	La Crosse, Wis.
Sioux City, Iowa.			Wausau, Wis.
Topeka, Kans.			Menasha, Wis.

I have the honor to state that it is impracticable to furnish the data called for in your letter for the fractional parts of the months of July, 1877, and February 1, 1879, but I have prepared, and inclose herewith, a tabulated statement covering the period from the 1st of July, 1877, to February 1, 1879, and showing the total receipts on account of salaries, fees, and commissions earned at the several offices indicated in your letter; the total amount paid to registers and receivers on account of salary, fees, and commissions at such offices; the amount reported by such officers as fees for reducing testimony to writing, and the amount authorized and paid to said offices severally for clerk hire, rent, etc., omitting from the last two items the month of January, 1879.

Referring to the fourth subdivision of your letter, in which you inquire if the circular letter by Hon. J. M. Edmunds, dated April 14, 1864, was approved by the Secretary of the Interior, I have the honor to inform you that the circular referred to was only a Land Office circular, and does not appear to have been approved by any Secretary of the Interior. Neither does it appear that the circular letters of July 9, 1877, signed by U. J. Baxter, Acting Commissioner, and referred to in the fifth subdivision of your letter, was ever submitted to or approved by the Secretary of the Interior.

There is no record of any appeal having been taken from the ruling of this office requiring registers and receivers to account for the fees received for reducing testimony to writing, nor do I find any evidence that the question was ever passed on by the honorable Secretary of the Interior.

Commissioner J. A. Williamson in his report for 1878, p. 114, referring to the fees for reducing testimony to writing, says:

On July 9, 1877, this office, after careful consideration decided that under the law, as it now stands, these fees should be accounted for as other fees and commissions.

This decision appears to have taken shape in the two letters addressed, respectively, to the offices at Prescott, Ariz., and at Huntsville, Ala., and directed the one to all offices where such fees were 22½ cents per 100 words and the other to all offices where the fees were 15 cents per 100 words, and no other rule or decision appears to have been rendered on the subject.

In reply to the eighth subdivision of your letter I have the honor to state that I find no evidence that the letter of Messrs. Wheaton & Chamberlain, dated January 11, 1879, was formally acted on by the honorable Secretary of the Interior.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Hon. J. N. DOLPH, U. S. Senate.

Memorandum.

The foregoing letter of the honorable Commissioner of the General Land Office, Division M, of March 31, 1894, "*in re* Wheaton & Chamberlain," shows: That the letter of July 9, 1877, of U. J. Baxter, then chief clerk of the General Land Office, signed "Acting Commissioner" (p. 2, Senate Report No. 203, Fifty-third Congress, second session), was never approved by the honorable Secretary of the Interior, and also shows that the letter of Wheaton & Chamberlain, of January 11, 1879, to the General Land Office, was not formally acted upon by the Secretary.

(The official annotation indorsed on said letter, now of record in the General Land Office, being thus: "Senator Sargent desires that no reply be sent until he shall file an additional statement on the same subject.")

Second.—The tables submitted by the Honorable Commissioner General Land Office with his said letter of March 31, 1894, show that the amount of money collected and reported by Wheaton & Chamberlain between July 1, 1877, and February 1, 1879, (to wit, \$5,330.76), for reducing testimony to writing, exceeded not only the total amounts reported by any other U. S. land office registers and receivers during this same period, but, in fact, exceeded, with one exception only, to wit, Kansas, the aggregate amount reported from all the U. S. land offices in any one public-land State.

In the State of Kansas the total amount reported by all the registers and receivers of all the land offices of that State for reducing testimony to writing during this same period aggregated the sum of \$6,014.26.

But it also appears that said U. S. land officers, during this same period, were all allowed for clerk hire for reducing said testimony to writing the aggregate sum of \$5,741.67, and for office rent the further sum of \$475, making a total aggregate of \$6,216.67, a sum in excess of the total aggregate received from reducing testimony to writing during this same period.

Third.—In Florida the register and receiver received their maximum salaries and commissions, during the same period, but they did not report any sums by them received for reducing testimony to writing, yet during this same period they received the sum of \$2,590 for clerk hire and \$684 for office rent, making a total aggregate of \$3,274, which added to their total salaries and commissions made a sum in excess of the total aggregate received by the United States from all of said sources in said State.

In Arkansas all the registers and receivers received their maximum salaries and commissions, and reported the sum of \$1,153.57 for reducing testimony to writing, but during this same period they received the sum of \$271 for clerk hire and \$1,020 for office rent, making an aggregate of \$1,291, being in excess of all sums by them reported for reducing testimony to writing during that same period.

In Wisconsin the total amount reported by all the U. S. registers and receivers from all 6 of the U. S. land offices therein during this same period aggregated the sum of \$1,096.02, being about one-fifth of the sum reported by Wheaton & Chamberlain from the one land office at San Francisco, Cal.

In Alabama during this same period, the amount reported by all the registers and receivers from all the U. S. land offices therein for reducing testimony to writing, aggregated the sum of \$596.22, but said officers received the sum of \$1,096 for clerk hire, and \$760 for office rent, or a total aggregate of \$1,856, being about three times the sum reported by them for reducing testimony to writing.

In Iowa during this same period the registers and receivers from all the land offices therein reported the sum of \$1,405, for reducing testimony to writing, yet they received the sum of \$1,061 for clerk hire therefor.

In Louisiana all the registers and receivers from all the U. S. land offices therein reported the sum of \$8.90 only for reducing testimony to writing, yet during this same period they received the sum of \$1,693 for clerk hire.

In Mississippi all the registers and receivers reported the sum of \$361.26 for reducing testimony to writing, yet they received the sum of \$1,571.79 for clerk hire during this same period.

CONCLUSION.

So that viewed from any and every proper standpoint it now fully appears that Wheaton & Chamberlain reported to the United States, as received by them, from reducing testimony to writing by clerks employed and paid by them therefor, a sum of money in excess not only of the sum reported by any other U. S. register and receiver from any other U. S. land office, but far in excess of all the sums reported from all other public land offices together, in any other public-land State except Kansas, and in that State the registers and receivers were paid for clerk hire and office rent a sum of money in excess of the total aggregate of all the receipts by them derived from this source, and in excess of the sum (\$5,330.76) reported by Wheaton & Chamberlain during this same period.

It would therefore seem that equity alone to Wheaton & Chamberlain demands that they should be, at the very least, reimbursed the actual sum of money (\$3,800) by them paid out of their own private funds to their two clerks, for reducing testimony to writing between July 1, 1877, and February 1, 1879, aggregating the sum of \$5,330.76, and which sum was derived from deposits of money made by settlers and contestants in controverted land cases and not otherwise.

During this same period the United States did not incur any expense whatsoever at the San Francisco U. S. land office on account of clerk hire of any kind.

The United States, therefore, instead of being called upon during the aforesaid period to pay out of the public Treasury any money for the hire of clerks at the San Francisco U. S. Land Office would, as a matter of fact, receive a clear profit of \$1,530.76 after paying Wheaton & Chamberlain their equitable claim of \$3,800 herein, and because that sum (\$1,530.76) is the difference between \$5,330.76, the sum received, reported, and deposited to the credit of the United States in the subtreasury at San Francisco by Wheaton & Chamberlain, and \$3,800, the sum by Wheaton & Chamberlain actually disbursed and paid out of their own private funds to their said 2 clerks for the work by them actually performed for reducing testimony to writing, and by which labor only of their said 2 clerks said \$5,330.76 was so earned and so received by the United States, and not otherwise.

For the United States not to reimburse these claimants said \$3,800 by them so paid out to their said 2 clerks would in fact be to reduce the salary of said register and receiver by \$100 each per month for nineteen months, aggregating the sum of \$3,800 and in that event the United States would thereby become improperly the beneficiary of the total sum of said receipts of \$5,330.76, a result so inequitable, so unfair, in fact so wanting in honesty that it ought not to be recognized by the Government when dealing with its own citizens.

Respectfully,

JOHN MULLAN,
Counsel for Wheaton & Chamberlain.

Statement showing the total amount of salaries, fees, and commissions received by the registers and receivers from all sources at the following-named U. S. land offices, and the total compensation paid said officers on account of salaries, fees, and commissions from July 1, 1877, to February 1, 1879; also (separately) the amount received for reducing testimony to writing during said period.

TOTAL RECEIPTS, SALARIES, FEES, AND COMMISSIONS.

States and offices.	Quarter ending—						Month ending Jan. 31, 1879.	Total receipts, July 1, 1877, to Jan. 31, 1879.
	Sept. 30, 1877.	Dec. 31, 1877.	Mar. 31, 1878.	June 30, 1878.	Sept. 30, 1878.	Dec. 31, 1878.		
Alabama:								
Huntsville.....	\$727.30	\$1,661.28	\$1,849.58	\$1,084.08	\$1,084.56	\$1,473.68	\$615.15	\$8,495.63
Montgomery...	750.10	1,250.00	1,082.90	664.20	630.80	1,558.50	459.47	6,395.97
Mobile.....	576.22	582.14	454.16	360.60	371.60	446.75	172.31	2,963.78
Arkansas:								
Camden.....	837.60	1,101.99	1,444.19	1,158.00	827.64	1,297.60	306.00	6,973.02
Dardanelle.....	965.46	999.66	1,400.68	909.00	887.56	1,331.14	268.90	6,762.40
Harrison.....	902.50	1,184.74	1,489.46	768.92	822.16	781.24	251.52	6,200.54
Little Rock....	580.08	1,405.39	1,535.90	818.50	935.06	1,554.36	345.60	7,174.89
Dakota:								
Bismarck.....	380.00	362.00	449.00	520.62	336.00	366.00	100.20	2,513.82
Deadwood.....	287.78	381.35	462.60	582.78	594.75	522.82	91.30	2,923.38
Fargo.....	1,189.15	2,260.48	3,109.82	8,450.74	3,895.12	3,559.66	590.19	23,055.16
Springfield....	488.66	820.53	1,117.06	2,043.42	1,302.82	2,169.12	397.48	8,339.09
Sioux Falls....	1,563.86	2,995.04	2,851.62	3,168.24	3,714.40	3,319.08	883.21	18,495.45
Yankton.....	755.64	1,159.92	1,551.20	5,776.88	3,006.54	2,182.26	456.14	14,888.58
Florida:								
Gainesville....	1,511.14	1,877.42	1,519.30	1,304.06	847.30	1,062.72	373.88	8,495.82
Iowa:								
Des Moines....	641.20	507.24	418.54	824.74	1,254.48	1,484.48	538.10	5,668.78
Sioux City.....	1,525.00	1,131.02	1,913.76	1,611.32	(*)	(*)	(*)	6,181.10
Kansas:								
Concordia.....	3,585.88	3,592.06	5,192.54	4,744.30	2,967.90	2,683.56	1,021.20	23,787.44
Hays City.....	1,417.77	2,047.12	4,024.74	6,745.36	5,562.92	7,009.64	1,113.81	27,921.36
Independence..	2,524.24	2,225.16	1,310.60	1,677.14	1,623.92	1,147.90	374.90	10,883.86
Kirwin.....	2,651.94	4,921.80	6,094.70	12,117.58	8,773.18	13,266.06	1,983.91	49,809.17
Larned.....	3,000.72	4,887.76	6,627.39	6,797.68	5,891.56	5,234.20	2,171.94	35,211.25
Salina.....	3,306.96	4,094.72	5,093.06	5,867.02	3,759.64	3,745.76	1,088.47	26,955.63
Topeka.....			1,911.84	813.64	630.90	704.14	186.43	4,246.95
Wichita.....	3,327.30	3,794.78	3,943.00	4,095.02	3,556.38	3,982.78	1,063.86	23,763.12

* Closed June 30, 1878; transferred to Des Moines.

Statement showing the total amount of salaries, fees, and commissions, etc.—Continued.

TOTAL RECEIPTS, SALARIES, FEES, AND COMMISSIONS—Continued.

States and offices.	Quarter ending—						Month ending Jan. 31, 1879.	Total receipts, July 1, 1877, to Jan. 31, 1879.
	Sept. 30, 1877.	Dec. 31, 1877.	Mar. 31, 1878.	June 30, 1878.	Sept. 30, 1878.	Dec. 31, 1878.		
Louisiana:								
New Orleans ..	\$757.44	\$510.30	\$401.88	\$745.00	\$506.40	\$533.76	\$176.02	\$3,630.80
Natchitoches ..	453.92	562.72	457.02	376.78	434.36	461.58	117.45	2,863.83
Monroe	334.42	443.06	341.08	293.30	179.17	144.50	29.17	1,764.70
Michigan:								
Detroit	451.88	434.78	459.18	476.12	529.38	490.18	138.10	2,979.62
East Saginaw ..	381.16	444.40	397.77	509.32	451.32	900.70	130.90	3,215.57
Reed City	629.24	784.18	499.16	667.38	1,185.47	1,364.06	337.94	5,467.43
Marquette	531.20	429.40	442.38	1,114.08	652.84	602.06	189.66	3,961.62
Traverse City ..	1,518.18	1,798.82	1,335.58	1,422.56	246.45	(*)	(*)	6,321.59
Minnesota:								
Benson	1,648.24	2,753.88	3,490.50	5,559.34	1,678.06	2,723.44	479.09	18,332.55
Duluth	297.00	333.74	342.76	489.56	495.06	440.16	105.88	2,504.16
Detroit	768.52	1,759.76	2,047.58	4,582.92	2,241.76	2,997.84	539.38	14,937.76
Fergus Falls...	849.75	2,247.06	1,720.30	5,064.64	1,725.46	2,239.98	449.41	14,296.60
New Ulm	1,508.26	2,069.84	2,919.92	3,181.66	2,090.26	1,855.10	341.58	13,966.62
Redwood Falls..	1,089.66	2,200.22	2,022.50	2,875.78	1,517.74	1,718.60	288.63	11,713.13
St. Cloud	801.98	4,924.10	1,305.40	1,251.48	1,141.34	1,381.80	212.48	11,018.58
Taylor's Falls..	432.40	611.74	505.70	506.36	543.60	476.30	149.33	3,225.43
Worthington ..	1,557.88	3,460.18	2,280.28	2,891.36	2,187.92	1,507.66	696.12	14,581.40
Mississippi:								
Jackson	829.76	1,285.86	1,016.42	615.70	625.06	1,010.86	287.67	5,671.33
Missouri:								
Boonville	828.08	784.62	853.22	714.18	709.16	616.14	144.92	4,650.32
Ironton	597.02	659.34	806.10	495.34	465.28	613.98	150.50	3,787.56
Springfield	836.28	956.84	991.30	721.26	539.03	602.22	192.23	4,839.16
Nebraska:								
Beatrice	961.40	1,685.22	1,419.80	1,827.02	1,190.55	1,812.04	206.35	9,102.38
Bloomington...	1,403.88	1,923.12	3,474.92	5,021.90	3,752.74	5,471.30	1,010.01	22,057.87
Grand Island ..	1,707.14	2,078.74	3,599.24	4,964.02	3,198.72	3,657.40	847.58	20,052.84
Lincoln	2,187.90	3,303.48	2,902.74	2,511.74	1,878.06	3,358.90	869.30	17,012.12
Niobrara	772.28	832.58	844.50	2,297.60	1,177.22	1,549.32	474.16	7,947.66
Norfolk	783.28	757.50	1,200.32	1,767.86	857.48	830.78	227.32	6,424.54
North Platte...	417.26	537.56	545.57	877.34	1,106.04	1,494.52	244.30	5,222.59
Wisconsin:								
Bayfield	296.00	301.00	356.00	655.12	350.86	422.42	135.25	2,516.65
Eau Claire	926.78	898.68	921.14	1,103.44	761.04	917.66	179.79	5,708.53
La Crosse	688.48	927.80	758.44	685.74	580.22	389.98	86.20	4,116.86
Menasha	626.48	547.56	502.22	720.68	673.02	723.79	204.24	3,997.99
St. Croix Falls..	707.12	767.48	608.52	752.34	742.56	727.96	192.79	4,498.77
Wausau	738.50	818.40	795.48	798.68	609.81	854.75	171.65	4,787.27

TOTAL COMPENSATION PAID REGISTERS AND RECEIVERS ON ACCOUNT SALARIES, FEES, AND COMMISSIONS.

States and offices.	Quarter ending—						Month ending Jan. 31, 1879.	Total compensation from July 1, 1877, to Jan. 31, 1879.
	Sept. 30, 1877.	Dec. 31, 1877.	Mar. 31, 1878.	June 30, 1878.	Sept. 30, 1878.	Dec. 31, 1878.		
Alabama:								
Huntsville	\$727.30	\$1,661.27	\$1,849.58	\$1,084.08	\$1,084.56	\$1,473.68	\$516.60	\$8,397.07
Montgomery...	750.10	1,250.00	1,082.90	664.20	630.80	1,558.50	459.47	6,395.97
Mobile	576.22	582.14	454.16	360.60	371.60	446.75	172.31	2,963.78
Arkansas:								
Camden	837.60	1,101.99	1,444.19	1,158.00	827.64	1,297.60	306.00	6,973.02
Dardanelle	965.46	999.66	1,400.68	909.00	887.56	1,331.14	268.90	6,762.40
Harrison	902.50	1,184.74	1,489.46	768.92	822.16	781.24	251.52	6,200.54
Little Rock....	580.08	1,405.39	1,250.00	1,104.40	935.06	1,554.36	345.60	7,174.89
Dakota:								
Bismarck	380.00	362.00	449.00	520.62	336.00	366.00	100.20	2,513.82
Deadwood	287.78	381.35	462.60	582.78	594.75	522.82	91.30	2,923.38
Fargo	1,189.15	1,810.85	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Springfield	488.66	820.53	1,117.06	2,043.02	1,302.82	1,697.18	397.48	7,866.75
Sioux Falls....	1,476.55	1,523.45	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Yankton	755.64	1,159.92	1,500.00	2,584.44	1,500.00	1,500.00	{ † 60.46 } { 456.14 }	9,516.60

* Removed to Reed City July 15, 1878.

† Ex. max.

Statement showing the total amount of salaries, fees, and commissions, etc.—Continued.

TOTAL COMPENSATION PAID REGISTERS AND RECEIVERS ON ACCOUNT SALARIES, FEES, AND COMMISSIONS—Continued.

States and offices.	Quarter ending—						Month ending Jan. 31, 1879.	Total compensation from July 1, 1877, to Jan. 31, 1879.
	Sept. 30, 1877.	Dec. 31, 1877.	Mar. 31, 1878.	June 30, 1878.	Sept. 30, 1878.	Dec. 31, 1878.		
Florida:								
Gainesville	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$847.30	\$1,062.72	\$373.88	\$8,283.90
Iowa:								
Des Moines	641.20	507.24	418.54	824.74	1,254.48	1,484.48	516.30	5,646.98
Sioux City	1,500.00	1,156.02	1,843.98	1,500.00	.....	.....	.....	6,000.00
Kansas:								
Concordia	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Hays City	1,417.77	1,500.00	750.00	2,332.23	1,500.00	1,500.00	516.60	9,516.60
Independence ..	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	374.90	9,374.90
Kirwin	1,500.00	1,500.00	1,500.00	1,500.00	1,231.03	1,500.00	516.60	9,247.63
Larned	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Salina	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Topeka	125.00	125.00	1,441.60	1,293.65	630.90	704.14	186.43	4,506.72
Wichita	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Louisiana:								
New Orleans ..	757.44	510.30	401.88	745.00	506.40	533.76	176.02	3,630.80
Natchitoches ..	453.92	562.72	457.02	376.78	434.36	461.58	117.45	2,863.83
Monroe	334.42	443.06	341.08	293.30	179.17	144.50	29.17	1,764.70
Michigan:								
Detroit	451.88	434.78	459.18	476.12	529.38	490.18	138.10	2,979.62
East Saginaw ..	381.16	444.40	397.77	509.32	451.32	900.70	130.90	3,215.57
Reed City	629.24	784.18	499.16	667.38	1,185.47	1,364.06	337.94	5,467.43
Marquette	531.20	429.40	442.38	1,114.08	652.84	602.06	189.66	3,961.62
Traverse City ..	1,500.00	1,500.00	1,500.00	1,500.00	246.45	.....	.....	6,246.45
Minnesota:								
Benson	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	{ 37.51 479.09 }	{ 9,516.60 2,504.16 }
Duluth	297.00	333.74	342.76	489.56	495.06	440.16	105.88	2,504.16
Detroit	766.52	1,759.76	1,502.00	1,971.72	1,500.00	1,500.00	516.60	9,516.60
Fergus Falls ...	849.75	1,500.00	1,500.00	2,150.25	1,500.00	1,500.00	{ 67.19 449.41 }	{ 9,516.60 9,516.60 }
New Ulm	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	{ 175.02 341.58 }	{ 9,516.60 9,516.60 }
Redwood Falls ..	1,088.84	1,500.00	1,500.00	1,911.16	1,500.00	1,500.00	{ 227.97 288.63 }	{ 9,516.60 8,611.37 }
St. Cloud	789.48	2,223.02	1,383.19	1,480.06	1,141.34	1,381.80	212.48	8,611.37
Taylor's Falls ..	432.40	611.74	505.70	506.36	543.60	476.30	149.33	3,225.43
Worthington ..	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Mississippi:								
Jackson	829.76	1,285.86	1,016.42	615.70	625.06	1,010.86	287.67	5,671.33
Missouri:								
Boonville	828.08	784.62	853.22	714.18	709.16	616.14	144.92	4,650.32
Ironton	597.02	659.34	806.10	495.34	465.28	613.98	150.50	3,787.56
Springfield	836.28	956.84	991.30	721.26	539.03	602.22	192.23	4,839.16
Nebraska:								
Beatrice	961.41	1,500.00	1,419.80	2,012.24	1,190.55	1,500.00	206.35	8,790.35
Bloomington ...	1,403.88	1,596.12	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Grand Island ..	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Lincoln	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	516.60	9,516.60
Niobrara	772.28	832.58	844.50	2,297.60	1,177.22	1,500.00	{ 42.44 474.16 }	{ 7,940.78 6,424.54 }
Norfolk	783.28	757.50	1,200.32	1,767.86	857.48	830.78	227.32	6,424.54
North Platte ...	410.49	537.56	545.57	877.34	1,106.04	1,494.52	244.30	5,213.82
Wisconsin:								
Bayfield	296.00	301.00	356.00	655.12	350.86	422.42	135.25	2,516.65
Eau Claire	926.78	898.68	921.14	1,103.44	761.04	917.66	179.79	5,708.53
Falls St. Croix ..	707.12	767.48	608.52	752.34	742.56	727.96	192.79	4,498.77
La Crosse	688.48	927.80	758.44	685.74	580.22	389.98	86.20	4,116.86
Menasha	626.48	547.56	502.22	720.68	673.02	723.79	204.24	3,997.99
Wausau	738.50	818.40	795.48	798.68	609.81	854.75	171.65	4,787.27

Statement showing the total amount of salaries, fees, and commissions, etc.—Continued.

FEES FOR REDUCING TESTIMONY TO WRITING.

States and offices.	Quarter ending—						Month ending Jan. 31, 1879.*	Total July 1, 1877, to Dec. 31, 1878.
	Sept. 30, 1877.	Dec. 31, 1877.	Mch. 31, 1878.	June 30, 1878.	Sept. 30, 1878.	Dec. 31, 1878.		
Alabama:								
Huntsville.....	\$16.20	\$36.24	\$45.50	\$53.50	\$21.50	\$12.48	.....	\$185.42
Montgomery....	23.00	120.00	103.00	52.00	72.80	40.00	.....	410.80
Arkansas:								
Camden.....		144.50	253.00	156.07	117.50	128.00	.....	799.07
Dardanelle.....		57.00	105.00	37.00	22.00	25.00	.....	246.00
Little Rock.....		37.50	.....	53.00	18.00	.....	.....	108.50
Dakota:								
Bismarck.....		40.00	5.00	12.50	6.00	10.00	.....	73.50
Fargo.....	68.56	158.50	104.40	50.50	27.24	35.00	.....	444.20
Springfield.....	18.00	22.00	26.00	50.00	72.00	169.00	.....	357.00
Sioux Falls.....	113.00	177.00	903.00	935.00	85.00	167.00	.....	2,380.00
Yankton.....	11.00	48.00	48.00	55.00	10.00	.....	.....	172.00
Iowa:								
Des Moines.....				400.00	.....	.....	.....	400.00
Sioux City.....	350.00	182.00	280.00	193.00	.....	.....	.....	1,005.00
Kansas:								
Concordia.....	207.34	145.70	250.06	174.36	89.70	110.76	.....	977.92
Hays City.....	49.00	12.00	10.00	23.00	.....	.....	.....	94.00
Independence..	11.00	398.00	31.00	433.90	84.00	79.24	.....	1,037.94
Kirwin.....	5.74	103.80	.....	.....	.....	51.16	.....	160.70
Larned.....	161.00	132.00	.....	.....	144.00	.....	.....	437.00
Salina.....	221.00	296.00	263.00	307.00	128.00	116.50	.....	1,331.50
Topeka.....	.....	.....	152.74	39.00	36.50	116.54	.....	344.78
Wichita.....	.....	402.00	332.00	185.00	305.18	406.24	.....	1,630.42
Louisiana:								
Natchitoches..	.....	.....	.....	.....	.....	8.90	.....	8.90
Michigan:								
Detroit.....	.....	.....	.....	.....	1.12	.....	.....	1.12
Reed City.....	.....	24.00	6.00	20.00	43.80	38.90	.....	132.70
Marquette.....	.74	.50	.....	3.70	7.74	5.84	.....	18.52
Traverse City..	90.00	126.00	78.00	46.66	10.16	.....	.....	350.82
Minnesota:								
Benson.....	64.50	115.50	65.50	55.26	.....	183.76	.....	484.52
Duluth.....	1.00	12.24	10.24	19.50	50.00	73.50	.....	166.48
Detroit.....	31.80	57.74	23.74	5.00	37.00	12.00	.....	167.28
Fergus Falls...	67.00	154.00	51.00	143.00	81.00	108.00	.....	604.00
New Ulm.....	27.80	31.92	43.60	27.54	5.00	3.00	.....	138.86
Redwood Falls..	20.50	33.00	30.80	47.00	14.00	10.00	.....	155.30
St. Cloud.....	25.00	55.00	14.00	.....	.....	.....	.....	94.00
Taylor Falls...	29.00	62.00	26.00	40.00	29.00	34.50	.....	220.50
Worthington...	14.70	14.10	25.50	54.30	18.00	7.80	.....	134.40
Mississippi:								
Jackson.....	26.00	85.00	65.00	28.26	36.00	131.00	.....	371.26
Missouri:								
Boonville.....	82.18	82.88	87.34	71.16	167.34	66.14	.....	557.04
Ironton.....	24.60	29.80	32.98	13.58	14.34	62.58	.....	176.88
Springfield.....	.....	4.00	8.00	15.00	4.00	18.00	.....	49.00
Nebraska:								
Beatrice.....	86.50	153.00	109.00	302.54	192.26	360.16	.....	1,203.46
Bloomington..	68.00	88.00	85.00	48.00	39.00	126.00	.....	454.00
Grand Island..	121.00	188.00	215.00	236.00	125.00	202.00	.....	1,087.00
Lincoln.....	60.00	26.50	29.00	7.46	272.00	443.00	.....	837.96
Niobrara.....	45.00	68.00	56.00	79.00	21.00	160.00	.....	429.00
Norfolk.....	76.00	85.00	122.00	.....	.....	.....	.....	283.00
North Platte..	14.00	74.46	36.00	63.00	116.50	147.50	.....	451.46
Wisconsin:								
Eau Claire.....	45.44	54.44	32.50	61.30	36.66	90.96	.....	321.30
La Crosse.....	23.74	56.00	47.54	40.74	19.10	21.74	.....	208.86
Menasha.....	1.00	1.00	2.24	8.50	8.00	4.00	.....	24.74
St. Croix Falls..	56.00	81.00	49.00	82.20	72.00	54.00	.....	394.20
Wausau.....	11.70	10.20	10.20	10.36	9.20	95.26	.....	146.92

* The time and labor required to furnish a statement of the fees for reducing testimony to writing during the month of January, 1879, being a fraction of a quarter, renders it impracticable to do so.

Amounts authorized and paid for clerk hire and rent from July 1, 1877, to January 31, 1879.

States and offices.	Clerk hire.	Office rent.	States and offices.	Clerk hire.	Office rent.
Alabama:			Kansas—Continued.		
Montgomery	\$1, 096. 00	\$760. 00	Topeka		\$475. 00
Arkansas:			Wichita	\$1, 575. 00	
Camden	221. 00	380. 00	Louisiana:		
Little Rock	50. 00	640. 00	New Orleans	1, 693. 64	
Florida:			Michigan:		
Gainesville	2, 390. 00	684. 00	Detroit		475. 00
Iowa:			Mississippi:		
Des Moines	1, 061. 00		Jackson	1, 571. 79	
Kansas:			Missouri:		
Hays City	66. 67		Boonville		270. 83
Independence	3, 700. 00		Nebraska:		
Kirwin	400. 00		Grand Island	80. 00	

NOTE.—There was no money authorized or paid at any of the above-named land offices for fuel and light or janitor fees.

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TEMPORARY INCREASE OF THE MILITARY ESTABLISH- MENT, ETC.

APRIL 20, 1898.—Ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 9944.]

The Committee on Military Affairs, having had under consideration H. R. 9944, to provide for temporarily increasing the military establishment, etc., report the same back to the House with the recommendation that it do pass with the following amendments:

Strike out all after the word "the," in line 10 of page 3, up to the word "governor," in line 11 on page 3.

Also strike out all after and including the word "subject," in line 12 of page 3, up to and including the word "prescribe," in line 14, page 3.

After the word "company," in line 15, page 3, insert the words "troop, battery, battalion."

Strike out all after and including the word "President," in line 19, page 3, down to and including the word "Army," in line 23, and insert in lieu thereof the words "governors of the States."

Strike out all after and including the word "who," in line 23, page 5, up to and including the words "United States," in line 25, page 5.

AMERICAN CITIZENS AT MATANZAS.

APRIL 21, 1898.—Ordered to be printed.

Mr. ADAMS, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany House Res. No. 291.]

The Committee on Foreign Affairs, to whom was referred House resolution No. 291, report the same back with the following amendments:

In line 1 strike out the words "Secretary of State" and insert "President," and in line 2 strike out "directed" and insert the word "requested," and recommend its adoption as amended.



NELLIE GRANT SARTORIS.

APRIL 21, 1898.—Ordered to be printed.

Mr. PEARSON, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. Res. 238.]

The Committee on Foreign Affairs, to whom was referred the joint resolution (H. Res. 238) to readmit Nellie Grant Sartoris to the character and privileges of a citizen of the United States, have carefully considered said resolution and beg to report the same to the House with a favorable and unanimous recommendation.



AMOS WEBSTER.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3553.]

The Committee on Invalid Pensions, to whom was referred the Senate bill (S. 3553) and the House bill (H. R. 8038) granting a pension to Amos Webster, have examined the same and the evidence relating thereto, and respectfully report the Senate bill.

This bill proposes to pension at \$30 per month Amos Webster, now of the city of Washington, D. C.

At the age of 23 years this claimant was enrolled on the 24th day of May, 1861, as first lieutenant in the First Regiment of Massachusetts Volunteer Infantry, and served faithfully until the close of the war, being honorably discharged from his first service on the 24th day of May, 1864, when he was made captain in the Army and assigned to the staff of Lieutenant-General Grant. He rose to the rank of major and was brevetted lieutenant-colonel. He was first lieutenant of the Fifth United States Cavalry, and for many months served on the staff of Lieut. Gen. U. S. Grant. His services were meritorious in every respect. He was commended for his faithful services by Generals Ingalls, Sherman, Grant, Porter, Hooker, and Sickles.

While in the service and at Harrison's Landing he suffered a severe illness of malarial origin, and from its effects he has never recovered.

The soldier has not heretofore applied for a pension, as he would not until compelled by his necessities. He is now broken down physically, and probably can not survive long. His necessities are great. Your committee has no doubt that his present physical condition is the result of disease contracted in the service.

The evidence in the case is quite voluminous, and the most of it is printed with the Senate report (No. 791), and your committee refer thereto for particulars.

Your committee is of the opinion that the pension granted this soldier should not be fixed on the ground of his brevet rank (lieutenant-colonel), but on the justice and merits of the case and the present necessities of the soldier.

As his present condition, of service origin, fully warrants a pension of \$30 per month, the Senate bill is reported back with the recommendation that it pass when amended as follows:

In line 8, after the word "Army," insert the words "and pay him a pension."

Amend the title so as to read: "An act granting a pension to Amos Webster."

TAYLOR McFARLAND.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6831.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6831) granting an increase of pension to Taylor McFarland, have examined the same and the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$12 to \$24 per month the pension of Taylor McFarland, of Monongahela, Pa., who enlisted April 25, 1861, in Company E, Twelfth Regiment of Pennsylvania Volunteer Infantry, and was discharged therefrom August 5, 1861, his term of service having expired. He reenlisted October 1, 1861, and served in Company K, Eighth Regiment Pennsylvania Volunteer Infantry, and was honorably discharged June 28, 1865.

The soldier filed application and was granted a pension, which was finally increased to \$8 per month, under the general law for injury to head and disease of lungs. Applications for increase were denied, and later on the soldier applied under the act of June 27, 1890, and, showing total disability, was granted a pension of \$12 per month.

This soldier is now poor, advanced in years, and in a deplorable physical condition, but this condition is not the result of wounds or injuries received in the service or of disease contracted therein in the line of duty.

Your committee has given careful attention to the evidence in this case and are constrained to say that there is nothing in the case that will justify an increase of pension beyond \$24 per month, and this is justified only on account of the age, long service, and deplorable condition of the soldier. It is impossible to separate the disabilities from which the soldier now suffers and for which he ought to be pensioned from those from which he now suffers and for which he ought not to be pensioned, but, exercising liberality and giving the soldier the benefit of doubts, your committee is constrained to recommend an increase to \$24 per month, believing that it is justified on the grounds above stated.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 5, strike out the words "laws and restrictions of the Pension Department," and insert in lieu thereof the words "provisions and limitations of the pension laws, the name of."

In line 6, strike out the words "of Monongahela, Washington County, Pennsylvania."

Strike out all after the word "Volunteers," in line 9, and insert in lieu thereof the following: "and pay him a pension at the rate of twenty-four dollars per month in lieu of the pension he is now receiving."

Amend the title so as to read: "A bill granting an increase of pension to Taylor McFarland."

○

MARY E. CHAMBERLIN.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1118.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1118) entitled "An act granting an increase of pension to Mary E. Chamberlin," beg leave to submit the following report, and recommend that said bill do pass with amendments.

This act proposes to increase from \$20 to \$30 per month the pension of Mary E. Chamberlin, of the city of Washington.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 2274) granting an increase of pension to Mary E. Chamberlin, have examined the same, and report:

A similar bill to this, and carrying the same increase, was reported favorably from this committee during the first session of the Fifty-first Congress, the report being as follows:

Mary E. Chamberlin is the widow of the late Capt. Lowell A. Chamberlin, of the First United States Artillery. He died August 9, 1889, at the Presidio, San Francisco, Cal. He intermarried with the claimant in 1867. He left no estate, nor has the claimant any in her own right. Mrs. Chamberlin is thus thrown upon her own resources, with four children, all minors, namely: Helen, Isabel, Lowell, and Annie.

The military career of the officer is set forth in the following extract from the orders which were issued announcing his death:

"For the first time since assuming command of the First Artillery, the painful duty devolves upon the colonel commanding the regiment of announcing to the regiment the death of one of its officers, Capt. Lowell A. Chamberlin, Mountain Battery C.

"Captain Chamberlin was born in Malden, Mass., December 18, 1838. Among the first to respond to his country's call to arms, he began his military career as first sergeant of a light battery of the Second Massachusetts Volunteers in July, 1861; second lieutenant Maryland Volunteer Light Battery, November, 1861; engaged at the battles of Gaines Mill, Savage Station, White Oak Swamp, Malvern Hill, second Bull Run, Va., South Mountain, Antietam, Md., and Fredericksburg, Va.; first lieutenant Maryland Volunteer Light Battery, January, 1863, and engaged at the battle of Chancellorsville and action of Salem Church, Va.; aid-de-camp to General Tyler, commanding the Artillery Reserve, Army of the Potomac, June, 1863; engaged at the battles of Gettysburg, Pa., Rappahannock Station, operations at Mine Run, battle of the Wilderness, action at Todd's Tavern, and battle of Spottsylvania Court-House, Va.; aid-de-camp to General De Russey, defenses of Washington, D. C., July, 1864, to July, 1865; first lieutenant Fifth Veteran Volunteers, July, 1865; regimental adjutant, August, 1865, at Fort Wadsworth, New York Harbor, to July, 1866.

"Appointed second lieutenant First United States Artillery, July, 1866; first lieutenant October, 1867; resigned November, 1873; reinstated March 23, 1875, with former rank and date of commission and without forfeiture of pay. At the Artillery School as student officer from May, 1876, to April, 1878. On detached service as instructor at the school from May, 1878, to September, 1881. Promoted captain November 6, 1886, his promotion taking him to Battery C, which battery he commanded up to the time of his death.

"He was selected by the Major-General Commanding the Army as the captain of artillery to whom was to be intrusted the organization and equipment of the battery

of Mountain Artillery, his battery having been designated as such on the 17th of April, 1889.

"His labors in this experimental field, entered upon with alacrity, were suddenly brought to an end. Stricken down by apoplexy on the night of July 31, he never rallied. The loving care of his family, the skill of his physician, could not avail to save his life. He passed away quietly, without a struggle, at 7.15 a. m., August 9."

Your committee regard this as a particularly deserving case, and recommend the passage of the bill.

In connection with the present bill, Gen. O. O. Howard has addressed the following letter to the chairman of the Senate Committee on Pensions:

WASHINGTON, D. C., *March 17, 1896.*

MY DEAR SIR: You have in charge Senate bill No. 2274, which awards a pension of \$50 per month to the widow of Capt. Lowell A. Chamberlin, First Artillery. He served for a considerable time under my command, and I came to know him well. He was one of those officers who did his whole duty with ardor and efficiency. The Commanding General of the Army, looking around for the one best adapted to command the new service—the Mountain Battery—selected him for his quickness, intelligence, and already marked ability for this duty. While he was efficiently performing the new functions a sudden paralysis ended his life.

While Chamberlin was very young and started as an enlisted volunteer, he always had the respect of all who knew him as he passed from grade to grade. He was in many battles, and was highly commended for gallantry both as an artillery officer and as an aid-de-camp.

Mrs. Mary E. Chamberlin, his widow, has one of her children still at school, too young to take care of herself, and as she is a most worthy woman and the widow of a most faithful servant of the Government, I hope you will allow her all the amount proposed in your own bill. I hardly need say that she has no other means of support for herself and this one child. The three other children, it is true, are gaining a livelihood, but have little surplus with which they can aid their good mother.

Doubtless you have Captain Chamberlin's record and have noted his exposure to yellow fever at Fort Pickens for several months in 1875. Doubtless such trials and other exposures during the war were the indirect cause of his early death.

With much esteem, very truly, yours,

OLIVER O. HOWARD,
Major-General, United States Army, Retired.

Hon. JACOB H. GALLINGER,
United States Senator, Washington, D. C.

Mrs. Chamberlin is now drawing the usual pension of \$20 per month as the widow of a captain. This bill asks that the amount be increased to \$50 per month. In view of the long and distinguished services of the soldier and the pecuniary necessities of the widow and children, your committee report the bill back favorably with a recommendation that it be amended by striking out the word "fifty," in line 8, and inserting the word "forty," and that as amended it pass.

This soldier died in the service, of diseases and disabilities contracted therein, at the early age of 51 years. He entered the military service in July, 1861, and at the close of the civil war was made a first lieutenant in the Regular Army. He rose to the rank of captain and was assigned to and performed duties requiring the highest ability. At his death he left his widow and three children, two girls and a boy. These children are able to and do support themselves, but can contribute but little to aid the mother.

As the soldier died poor, having given his entire life and energies to his country, and as the widow has no property of her own, she is dependent entirely upon her pension of \$20 per month for support. At her age and in her physical condition this is entirely inadequate for her reasonable support.

The case is a most meritorious and deserving one, and the Senate act is therefore reported back with the recommendation that it pass when amended as follows:

Line 8, after the words "a pension," insert the words "at the rate."

Same line, strike out the word "forty" and insert in lieu thereof "thirty."

PRYOR PERKINS.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8670.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8670) granting a pension to Pryor Perkins, have examined the same and the evidence relating thereto and respectfully report:

This bill as amended proposes to pension at \$40 per month Pryor Perkins, of Jacksboro, Tenn.

The evidence in this case, which is abundant and trustworthy, establishes the following facts:

Pryor Perkins, the claimant, was a loyal citizen of East Tennessee during the war of the rebellion, and on account of his loyalty, devotion to the Union cause, exceptional intelligence, and great familiarity with the country in East Tennessee and that vicinity, was enlisted and sworn in as a scout in what was known as Captain Reynolds's company of regular scouts. These men were not regularly mustered into the service of the United States, but were paid for their services by the Government.

This claimant commenced such service in 1863 and was discharged therefrom in 1864, being unable to perform duty longer by reason of disability incurred while acting as such scout, and which disability was probably the result of exposure and hard riding. He was employed by and very useful to General Burnside in August, 1863, and went with the advance of the army to Knoxville, Tenn., and was engaged in many other expeditions with and in aid of the Union Army, which it is unnecessary here to detail.

The service performed by this man was more perilous than that of the great majority of private soldiers, and was of incalculable value to the Union cause. The claimant's knee was injured during such service, and amputation above the knee became necessary in 1878. He was sound when he entered the Union service. This claimant is 81 years old, broken down in health, and nearly blind. He is without property or means of support of any kind. The claimant is a man of good character,

and his disabilities are not the result of vicious habits. He has no pensionable status at the Bureau, as he was not regularly mustered into the United States service, and hence special action by Congress is necessary if we do justice to this scout.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 5 strike out the words "of Campbell County, Tennessee."

In line 7, after the word "pension," insert the words "at the rate."

In line 7 strike out the word "fifty" and insert in lieu thereof the word "forty."

STATE OF TENNESSEE, *Campbell County*:

In the matter of Pryor Perkins, late scout, United States Army, under W. S. Reynolds, acting chief.

Personally comes Sylvester Cooper, aged 71 years, whose residence and post-office address is Jacksboro, Campbell County, Tenn., who, being duly sworn, deposed as follows, to wit: I was a scout detailed from Company A, First Tennessee Infantry, and assigned to duty as a scout with William S. Reynolds, acting chief of scouts, and remember that while our command was on the march to take possession of East Tennessee, about August, 1863, at Williamsburg, Ky., said Pryor Perkins was sworn into our scouting service, under order of General Burnside. Said Perkins then entered upon duty with us and served faithfully until his discharge at Knoxville, Tenn., in fall of 1864, during which time said Perkins did valuable services, acting as guide to various commands and scouting expeditions, and was in several skirmishes and engagements and often under enemy's fire. He was a man of experience and acquainted with the highways and byways of this mountain country, and his service seemed to be greatly in demand then, and he was always ready to go and obey orders. I remember that said Perkins, some time before his discharge, complained of his right leg being injured from so much riding in service. Whatever this injury was it continued and grew until he had to have his right leg cut off some time after discharge. I was with him a great deal during his service, and make my statements from personal knowledge. I am no kin to claimant and have no interest in his claim.

SYLVESTER COOPER.

Sworn and subscribed before me, after being read and understood by affiant, whom I certify to be of good repute and the person he represents himself to be. I am no kin to claimant and have no interest in his claim.

Given under my hand and seal of circuit court of Campbell County, Tenn., at office in Jacksboro, February 12, 1898.

[SEAL.]

WM. ALLEN, *Clerk*.

STATE OF TENNESSEE, *Anderson County*:

In the matter of Pryor Perkins, late a scout in company known as W. S. Reynolds Scouts, in General Burnside's command, war of the rebellion of 1861-1865.

Personally comes W. S. Reynolds, aged 80 years, whose residence and post-office address is Andersonville, Anderson County, Tenn., who, being duly sworn, deposed as follows: I am well acquainted with Pryor Perkins, who was employed by General Burnside and duly mustered into the service of the United States at Williamsburg, Ky., about August, 1863, to serve as a scout and guide for the United States Army, then on the march to take possession of East Tennessee. Said Perkins was then and there duly sworn into the said service, and he served faithfully, being engaged in several skirmishes and often under fire of the enemy, until discharged at Knoxville, Tenn., on or about the middle of the last half of the year 1864 by General Burnside, when he was paid off for his services.

I know this personally, because during all of his said service I was acting chief of scouts and he was assigned to my command by General Burnside and served faithfully, as stated, doing valuable service as a guide for various commands at different times and making hazardous and dangerous scouting trips into the enemy's country, and was considered a very useful and valuable man in this service.

Shortly before his discharge he complained that his right leg was bruised above the knee, and this existed when he was discharged. It was a result of riding and

exposure incident to his service, as I believe, as he was a man of good, sound health when he went into the service, and free from such injury or disability. I was acting chief of scouts, and the men employed and under my command were paid by Quartermaster's Department. Some time after his discharge said Perkins had to have his injured leg amputated. I have not seen him but a few times since the war, but know his said leg has been amputated, and I believe him to be a worthy and fit subject of and for the country's bounty. I am no kin to said Perkins and have no interest in the matter. In justice to this man I have to say that most of the scouts were men detailed from regiments in which they had enlisted, and those of the detailed men now living are pensioned, but the men employed like this one, who done the most valuable service, are not provided for. I make this statement that justice may be done. I was second sergeant of Company A, First Tennessee Regiment, and was detailed to serve as chief of scouts.

W. S. (his x mark) REYNOLDS.

Witnesses:

JOHN REYNOLDS.

R. D. PERKINS.

Sworn and subscribed before me after being read and understood by affiant, who I certify to be of good repute, worthy of full faith and credit, and the person he represents himself to be. I am no kin to complainant and have no interest in his matters.

Given under my official signature and seal at office, Andersonville, Tenn., February 11, 1898.

W. H. GIBBS, *Justice of the Peace.*

STATE OF TENNESSEE, *Campbell County:*

In the matter of Pryor Perkins, late a scout in United States service during rebellion of 1861-1865, under W. S. Reynolds, acting chief of scouts.

Personally comes William Allen, of Jacksboro, Tenn., and makes oath in lawful form as follows: I am well acquainted with said Pryor Perkins, who was sworn in as a scout about August, 1863, at Williamsburg, Ky., under and by order of General Burnside. This was while our army was on the march to take possession of East Tennessee. Said Perkins served faithfully from that time on until discharged at Knoxville, Tenn., in the fall of 1864. During all this time he served continuously as scout and guide for various commands, reconnoitering expeditions, skirmishes, etc., being in several engagements and under fire of the enemy on frequent occasions. Some time before his discharge he complained of some injury of his right leg, from riding, as I suppose. Whatever the injury was, it formed some sort of a growth above his right knee that caused him to have his right leg amputated. He was of sound health and free from such injury when he enlisted or joined the scouts. My knowledge of these facts is gained by being a member of said scouting service when said Perkins joined our command, and was well acquainted with his service, which was considered valuable, as he was a man of experience and well acquainted with the geography of this mountain country, and therefore was almost continually on the go with scouting expeditions, etc.

I am no kin to claimant and have no interest in his matter.

WM. ALLEN,
Late a Scout, U. S. A.

Sworn and subscribed to before me. Affiant wrote his own evidence and is the person he represents himself to be and worthy of full faith and credit. I am no kin to claimant and have no interest in his claim.

Given under my official signature and seal at office in Jacksboro, Tenn., February 12, 1898.

[SEAL.]

JOHN BOWMAN, *Clerk of County Court.*

STATE OF KENTUCKY, *Mercer County:*

Personally appeared before me, Ben T. Head, a notary public for the county and State aforesaid, Pryor Perkins, and makes oath in lawful form as follows:

I was 80 years old the 11th day of September, 1897. I am not able to make my living, and am not able to do any work at all. My first service was at Williamsburg, Ky., in the year 1863. Enlisted under General Burnside, in Captain Reynolds's company of regular scouts. I was doing service under Captain Reynolds until discharged in 1864. During this period was paid by United States Government; drew my pay at Knoxville, Tenn., and was also discharged at Knoxville, Tenn., in 1864.

I do believe that horseback riding and the continued exposure during the time of my service for the Government caused the loss of my leg.

I do not own any property, personal or real estate.

Witness my hand this 23d day of February, 1898.

PRYOR (his x mark) PERKINS.

Witnesses:

WILL S. HOPPER,

J. Q. SILER.

Signed and sworn to before me by Pryor Perkins this 23d day of February, 1898.

[SEAL.]

BEN T. HEAD,
Notary Public.

(My commission expires May 22, 1900.)

STATE OF TENNESSEE, *Campbell County*:

In the matter of bill in Congress to pension Pryor Perkins, late a scout under W. S. Reynolds, acting chief, United States Army, in the war of the rebellion of 1861-1865.

Personally comes Winston Bowman, aged 49 years, of Jacksboro, Campbell County, Tenn., who makes oath in lawful form as follows: I am well acquainted with said Perkins, who served as a scout in the United States Army in Kentucky and East Tennessee in 1863 and 1864, and from his reputation his service as such must have been valuable; he being a man of experience and well acquainted with the mountains of this section. I was young then, but know of his service, as our family then lived in his neighborhood in Elk Valley, Tenn. Some time after said rebellion it became necessary for said Perkins to have his left leg amputated above the kneejoint about 8 inches. I was not present when it was amputated, but know the fact that because of some sort of a formation above the knee it was made necessary. I have heard it said that this came from riding in the Army, but be that as it may, said Perkins was one of the most patriotic of East Tennessee's loyal men to the United States Government, and underwent great hardships and privations for it during the rebellion. Said Perkins is now a poor, feeble old man, 81 years of age, and besides the loss of his leg he is almost blind and his hearing is very defective, and is therefore totally unable to perform any manual labor, and he has no property from which to support himself, and there is no one legally bound to support him. He is a man of good repute and highly respected as an upright, honest man and a loyal citizen of the United States of America. I am no kin to him and have no interest in his matter, and make this statement that justice may be done him.

WINSTON BOWMAN.

Sworn and subscribed to before me after being read and well understood by affiant, whom I certify to be of good repute and worthy of full faith and credit. I am no kin to claimant and have no interest in his matter.

Given under my hand and seal of chancery court at office in Jacksboro, Tenn., April 2, 1898.

[SEAL.]

JNO. J. GRAHAM, *Clerk Chancery Court.*

ELK VALLEY, CAMPBELL COUNTY, TENN.,
April 2, 1898.

DEAR FRIEND: I send you herewith affidavit of W. Bowman in support of the bill in Congress for my relief lately so kindly filed by you.

I was employed by General Burnside, on his march to take possession of East Tennessee, in August, 1863, and I was used as a pilot and scout and piloted the command that came through the mountains under Colonel Sanders, and had a fight below Jacksboro, Tenn., killing some and taking some prisoners back to Burnside's army, near Huntsville, Tenn., and then went with Reynolds's scouts, in advance of the Army, to Knoxville, Tenn. After that I went upon various scouting expeditions, and the last thing I did under General Burnside was some time after the siege of Knoxville, when he went North. I piloted him through the mountains to Williamsburg, Ky. I was used in various ways by orders from headquarters. All my papers have been destroyed. I did not think of asking for pension until I became so poor that I must look for relief from some quarter, and as the men with whom I served get a pension—that is, those that were enlisted and detailed to serve as scouts—but myself and William Allen and Isaac Garman are not pensioned, though we served as faithfully as the others, and I hope that Congress will do us justice now. It will

not cost the Government very much, as I am 81 years old, Garman is 85, and Allen 55 years old, and all very feeble and so diseased that we can not survive long. While I was in line of duty as scout my left leg above the knee became injured in some way by so much riding that I had to quit and go home in April, 1864—a sort of a knot or formation, which continued to give me great pain, until it became necessary to amputate the leg. It was caused by hard riding, as I believe, while I served. William Allen and Isaac Garman also served as scouts, and they continued in the service after I went home. They both did valuable service, as I know, and I pray that the bills in Congress for our relief may be acted on at an early day, for if not some of us, at least, can not expect to be benefited if there is any delay.

PRYOR (his x mark) PERKINS,
Late a Scout, United States Army.

Attest:

D. W. WALKER.
PH. SCHLOSSHAN.

Sworn and subscribed to before me after being read over to and well understood by affiant, whom I certify to be of good repute and the person he represents himself to be. I am no kin to the parties and have no interest in the matter.

Given under my hand and seal of county court at office in Jacksboro, Tenn., April 2, 1898.

[SEAL.]

JNO. BOWMAN,
County Court Clerk,
By WINSTON BAIRD,
Deputy Clerk.

Hon. HENRY R. GIBSON, M. C.

STATE OF TENNESSEE, *Campbell County:*

In the matter of the bill in Congress for relief of Prior Perkins, late a scout for United States Army in war of 1861–1865.

Personally comes S. C. Baird, of Jacksboro, Tenn., who, being duly sworn, deposed as follows: I have been well acquainted with said Perkins for more than thirty-five years. I know of his service as a scout for United States Army in war of 1861–1865, being engaged as a scout and guide when the army under General Burnside took possession of East Tennessee. I was then a soldier of Company A, First Tennessee Infantry. Said Perkins was a man of intense loyalty to the Government of the United States, and was considered a valuable man in the service in which he was engaged, being acquainted with this mountain country.

After the war, about the year 1878, I was present and assisted in amputating said Perkins's right leg above the knee. This was here at Jacksboro. I aided the doctors while they were amputating his leg. Dr. Moore and Dr. C. D. Russell, who attended, are both dead. The leg was cut off some 8 inches or more above the knee joint, leaving a short stump. Since, I have heard him complain that it hurts him all the time, and he didn't think he could stand it to use an artificial leg, so he has continued to use crutches. He is very old, nearly blind, almost helpless; and in view of his valuable services for the Government, and the probability that the loss of his leg may have been caused by exposure incident to his service, as he says it was, and he being a man of good repute for veracity, as well as generally, I consider him a fit subject of the country's bounty.

I am no kin to him and have no interest in his matters.

S. C. BAIRD.

Sworn and subscribed to before me after being read and understood by affiant, whom I certify to be of good repute and the person he represents himself to be. I am no kin to claimant and have no interest in his matters.

Given under my hand and seal of circuit court at office in Jacksboro, Tenn., March 4, 1898.

[SEAL.]

WM. ALLEN, *Clerk.*

STATE OF TENNESSEE, *Campbell County:*

In the matter of bill in Congress for relief of Prior Perkins, late a scout, United States Army.

Personally comes J. C. Hollingsworth, aged 55 years, of Jacksboro, Campbell County, Tenn., who, being duly sworn, deposed as follows: I have been acquainted with said Perkins for more than thirty-five years. He was of sound bodily health up to the time he went into said service, so far as I was able to judge. I saw him at

various times and places while he was on duty as a scout of United States Army, in the company of which W. S. Reynolds was chief, in rebellion of 1861-1865. I was then a soldier of Company B, First Tennessee Infantry. Said Perkins was a scout and guide for the United States Army on its march to take possession of East Tennessee in summer of 1863, under General Burnside, General Hartsuff, and other officers, and he had the reputation of being a very useful man in that capacity, as he was well acquainted with the geography of this mountain country, and its by-ways and highways, and was an intensely loyal man to the United States Government. Some several years ago, about the year 1878, perhaps longer, his right leg was amputated above the knee. Dr. Moore and Dr. C. D. Russell, who attended when it was done, are both dead.

As to the cause I do not know, though I have no reason to doubt Mr. Perkins's statement as to the cause of the injury, as he is a man of good repute. He is now old and feeble and I consider him a fit subject of our country's bounty. I am no kin to him and have no interest in his claim.

J. C. HOLLINGSWORTH,
Postmaster.

Sworn and subscribed to before me after being read and understood by affiant, whom I certify to be of good repute and the person he represents himself to be.

I am no kin to claimant and have no interest in his claim.

Given under my hand and seal of circuit court at office in Jacksboro, Tenn.,
March 4, 1898.

[SEAL.]

WM. ALLEN, *Clerk.*

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MRS. BETTIE GRESHAM.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SIMS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 3596.]

The Committee on Pensions, to whom was referred the bill (H. R. 3596) granting a pension to Mrs. Bettie Gresham, have considered the same and respectfully report as follows:

The claimant is the widow of Davis C. Gresham, who is alleged to have served as a substitute for one Obediah Warner in the company commanded by Capt. Richard S. Sloan, Georgia Volunteers, Creek Indian war of 1836.

Such records of Captain Sloan's company as are on file at the War Department do not bear the name Obediah Warner nor Davis C. Gresham, but a copy of the company roll, certified to under seal by J. W. Warren, secretary executive department, State of Georgia, bears the name Obediah Warner.

Benjamin Williams, whose name is also borne on the company roll, swears that Davis C. Gresham was a member of the company; and in this Williams is corroborated under oath by Felix Watts, who swears that he was engaged by said Davis C. Gresham as cook and servant while on duty in the Creek Indian war of 1836; that he accompanied the said Gresham to West Point, Ga., in June, 1836, where Gresham was mustered into service as a substitute for Obediah Warner, who was a delicate man, while Gresham was in the full flush of youthful manhood, and eager to face the dangers and adventure anticipated in the campaign. That the said Gresham was a well-known favorite in the company, and long remembered by his old comrades in arms. That he remained with the company under command of Captain Sloan for several months.

Mary J. Hill, of Meriwether County, Ga., testifies to having been a witness to the marriage of Davis C. Gresham to the claimant in 1846, and that Obediah Warner, in whose stead Gresham is said to have served in the Creek Indian war, was her uncle, and she personally knows that said Warner was drafted for service in said war, but that he did not go, he having furnished a substitute.

William T. Revill swears that he boarded in the family of Mr. and Mrs. Gresham, at intervals, from 1856 to 1865, and often heard Gresham and Lieutenant Folds, of Captain Sloan's company, talk over their experiences in the Creek war; and he also heard an uncle of his, now deceased, who knew all the facts, speak of Gresham's service as a substitute for Obediah Warner.

Mr. Revill also testifies to the legal widowhood of the claimant, and that she is old and infirm and sadly in need of help; that she has an invalid daughter, and it is only by the aid of charitable friends that they obtain a scanty subsistence.

A careful search has been made at the Pension Bureau for a bounty land or pension claim based upon the service of Obediah Warner or Davis C. Gresham, but none has been found.

Your committee believe, after a careful review of the evidence, that Gresham rendered the alleged service; and, in view of the advanced age and needy circumstances of his widow, the passage of the bill is respectfully recommended with an amendment striking out the word "twenty," in line 8, and substituting therefor the word "eight," so as to fix the rating at \$8 per month.



ADONIA HUARD.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STEVENS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany S. 1131.]

The Committee on Pensions, to whom was referred the bill (S. 1131) granting a pension to Adonia Huard, have considered the same and report:

The records of the War Department show that the deceased soldier enlisted May 15, 1846, for the war with Mexico, in Captain Mauberret's battalion of Louisiana Light Artillery, and that he was honorably discharged July 27, 1846.

The soldier's claim for a pension in this case was rejected by the Pension Office on the ground that said "Hypolite Huard did not serve sixty days in Mexico, or on the coast or frontier thereof, or en route thereto," in order to bring him within the terms of the act of January 29, 1887.

The evidence shows that said Huard served as a soldier in said battalion for over sixty days, and also that he was not in Mexico or on the coast or frontier thereof. The question is, Was he en route thereto?

It is claimed in evidence in behalf of said soldier that immediately after enlistment he went into camp on the Place d'Armes (now Jackson Square), drilled, mounted guard on the guns, and performed actual service until discharged—considerably over sixty days; that they were marched to the United States barracks below the city for the purpose of being sent to Mexico, but owing to the large number of troops there the transports were unable to carry them all, and said soldier's company was left behind; that neither he nor any other members of the legion ever would have volunteered if their destination had not been the frontier for the purpose of reenforcing General Taylor; that for want of seagoing transports their departure was delayed greatly against their will; that they were only conveyed to Fort Jackson because the river steamboats were insufficient to cross the Gulf to Brazos St. Iago, and that there was no necessity to garrison Fort Jackson, the same being in no danger of attack, and the legion only having been placed there temporarily for practice and convenience until further shipment

could forward them to their destination; and that in going to and while at Fort Jackson, some 70 miles below New Orleans and near the mouth of the Mississippi River, they were en route to Mexico, according to the intent and meaning of the act of Congress of January 29, 1887.

The widow's post-office address is No. 917 North Villere street, New Orleans, La. She was married to the soldier (who died October 9, 1895) on the 4th of November, 1854. She is without property and depends upon her children for support.

The passage of the bill is recommended, with an amendment striking out all after the word "her," in line 9, and substituting therefor the words "a pension at the rate of eight dollars per month."

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THERESA BONNAVEAU.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUDENSLAGER, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 3565.]

The Committee on Pensions, to whom was referred the bill (H. R. 3565) granting a pension to Theresa Bonnavreau, have considered the same and report as follows:

A similar bill was favorably reported by your committee at the first session of the Fifty-fourth Congress, but failed to be reached on the Calendar for consideration. The report (H. R. 2108), which accompanied the bill in that Congress, fully setting forth the facts, is adopted by your committee as their report, and the bill is returned with a favorable recommendation.

[House Report No. 2108, Fifty-fourth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 2336) granting a pension to Theresa Bonnavreau, have considered the same and report:

The claimant's late husband, John B. Bonnavreau, was a private in Captain Bercier's company of Louisiana Volunteers, and served from August 21 to November 21, 1845.

Mrs. Bonnavreau made application for a pension under the Mexican war act of January 29, 1887, but the same was rejected on the ground that the service was not rendered during the war with Mexico, but covered a period prior to the beginning of that war.

The following report from the War Department shows the purpose for which the organization was mustered in, and all service rendered:

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, May 5, 1896.

SIR: Referring to your letter of the 2d instant, received yesterday, in which you request, for the use of your committee in connection with H. R. 2336, a statement showing the military service of T. B. Bonnavreau, who enlisted August 21, 1845, in the First Battalion, Louisiana Light Artillery, for service in the Mexican war, and also showing where he was employed during his service, and for what purpose the organization was enlisted, and in which letter you also asked to be advised whether it is held by this Department that an actual state of warfare existed between this

country and Mexico during the period of the soldier's service, I am directed by the Secretary of War to inform you that the official records show as follows:

T. B. Bonnaveau was enrolled and mustered into service August 21, 1845, as a private in Captain Bercier's battery, Louisiana Legion of Militia, which organization was also known as Captain Bercier's battery, Gally's battalion, Louisiana Militia Light Artillery, to serve three months. He was mustered out of service with that organization November 10, 1845. This organization was called into service by General Gaines, owing to the presence of a large force of Mexicans on the Rio Grande, apparently with hostile intent. It embarked for the army of occupation at Corpus Christi, Tex., on August 21, 1845, and in a letter dated August 23, 1845, from this Department, Gen. Z. Taylor was directed to accept into service the volunteers raised in Louisiana by order of General Gaines. It remained with the army of occupation at Corpus Christi, Tex., until November 2, 1845, when it was directed to embark for New Orleans to be mustered out of service.

It is held by this Department that the Mexican war commenced April 24, 1846.

Very respectfully,

F. C. AINSWORTH,

Colonel, United States Army, Chief Record and Pension Office.

Hon. HENRY C. LOUDENSLAGER,

Chairman Committee on Pensions, House of Representatives.

The claimant is 72 years old, very feeble, and in indigent circumstances, being without property of any kind, and dependent wholly upon her daily labor for support. The soldier died February 21, 1878.

The passage of the bill is recommended with an amendment striking out the word "twelve," in line 7, and substituting therefor the word "eight," so as to fix the rating at \$8 per month.



AMENDING SECTION 4896, REVISED STATUTES.

APRIL 21, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. HICKS, from the Committee on Patents, submitted the following

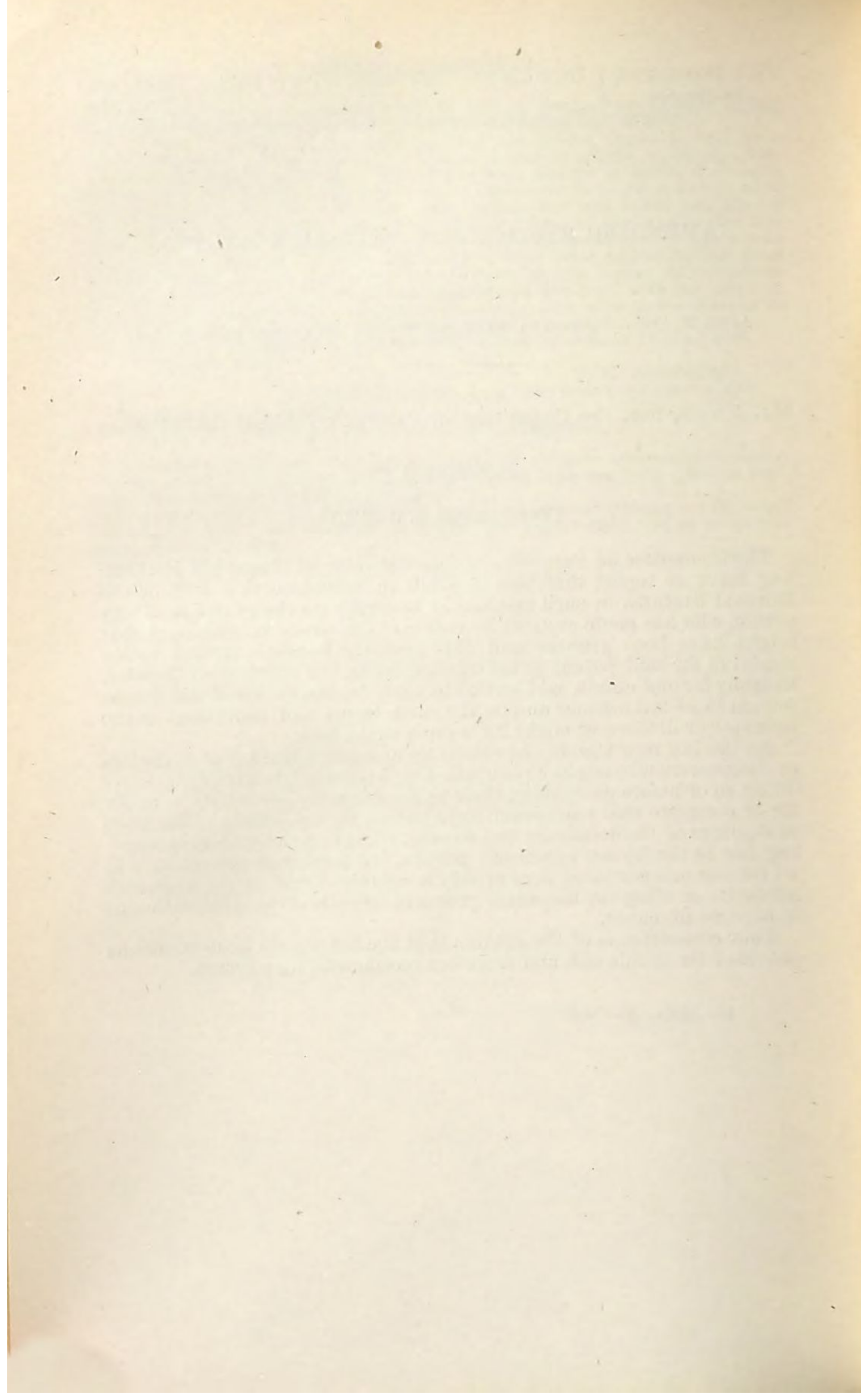
REPORT.

[To accompany H. R. 7346.]

The Committee on Patents, to whom was referred House bill No. 7346, beg leave to report that this is a bill to amend section 4896 of the Revised Statutes in such manner as to authorize the guardian of any person who has made any new invention or discovery for which a patent might have been granted and subsequently becomes insane before applying for said patent or before completing the application therefor, to apply for and obtain said patent in trust for the estate of said insane person in as full manner and on the same terms and conditions as the inventor or discoverer might have done while sane.

As the law now stands the executors or administrators of inventors or discoverers who might have applied for a patent, but have died before doing so or before completing their application, are permitted to apply for or complete said application for a patent for the benefit of the heirs or devisees of the decedent; but no such right is given under the existing law to the legally appointed guardian of an insane person, who, to all intents and purposes, is as utterly incapable of making the necessary affidavits or filing the necessary proofs in support of his application as if he were deceased.

Your committee is of the opinion that the law should be amended as provided for in this bill, and therefore recommend its passage.



POTTAWATOMIE AND KICKAPOO INDIAN RESERVATIONS, ETC.

APRIL 21, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CURTIS, of Kansas, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 8480.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 8480) providing for the sale of the surplus lands on the Pottawatomie and Kickapoo Indian reservations in Kansas, and for other purposes, having had the same under consideration, find the following facts:

The Pottawatomie Reservation is situated in Jackson County, Kans., and will, after the allotments as provided for in said bill are made, contain about 5,000 acres of land for sale. The Kickapoo Reservation is situated in Brown County, Kans., and will, when allotments provided for by said bill are made, contain about 3,000 acres of land for sale. A bill substantially like this one was approved by the Department and passed by the Fifty-third Congress, but the Indians refused to consent to the sale under that law because there was no provision for the children born to said tribes after the former allotments were closed. This bill has been drawn to meet the objection made by the Indians to the present law. Lands were allotted to these Indians several years ago, but there were a few absentees who failed to secure their allotments.

This bill provides for these absentees, as well as for the children born subsequent to the allotments. Schools have been conducted on these reservations for about twenty-five years, and the Indians are intelligent and industrious. They are engaged in agriculture and raising live stock, and desire the money arising from the sale of their surplus lands to better improve their farms. There is no possible chance to wrong the Indians under the proposed law, as their lands are to be sold to the highest bidder and the money paid by United States officers to the Indians. The committee recommend the following amendments:

Section 2, line 32, strike out the word "section" and insert the word "act."

2 POTTAWATOMIE AND KICKAPOO INDIAN RESERVATIONS, ETC.

In line 2, section 3, strike out the word "section" and insert the word "act."

At the end of line 1, in section 4, strike out the word "section" and insert the word "act."

In line 3, section 5, strike out the word "section" and insert the word "act."

After the word "of," in line 4, section 5, insert the words "either of."

In section 5, line 6, strike out the words "which have been."

In line 8, section 5, strike out the word "such" and insert the word "all."

In line 10, section 5, after the word "children" insert the words "and absentees."

In line 11, section 5, after the word "children" insert the words "and absentees."

With these amendments your committee recommend that the bill do pass.

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INSIGNIA AND NAME OF THE RED CROSS.

APRIL 21, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. HENRY, of Indiana, from the Committee on Foreign Affairs,
submitted the following

REPORT.

[To accompany S. 1913.]

The Committee on Foreign Affairs, to whom was referred the bill (S. 1913) to protect the insignia and name of the red cross, report the same back with the following amendments, and recommend that, as so amended, it do pass.

In line 3 on page 3, after the word "that," strike out all to and including the word "for" in line 4.

Also, in line 5 strike out the word "to," and insert in lieu thereof the words "who shall."

Also, in line 17, insert "a" before the word "misdemeanor."

The purpose of this bill is to remedy a difficulty under which the American National Red Cross has labored by reason of the fact that its name and insignia have been improperly used by other persons, especially during times of war or great distress, which called into service this international association. The bill does not, in any way, prevent anyone from doing the same class of work which is done by the American National Red Cross, but will prevent him from using the name or insignia of the American National Red Cross in carrying on such work.

Your committee has deemed it desirable that the American National Red Cross should be given sole and exclusive authority to use the name and sign of the Red Cross in carrying on the special work for which it has been organized, and which has been so successful in relieving distress in all quarters of the world.

WILLIAM CHRISTENBERRY.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SIMS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7696.]

The Committee on Pensions, to whom was referred the bill (H.R. 7696) granting an increase of pension to William Christenberry, have considered the same and respectfully report as follows:

The claimant was a private in Captain Miller's company of Tennessee Volunteers, and served from May 13 to July 14, 1838, in the Cherokee Indian disturbances. He is now a pensioner at \$8 per month under the Indian war service pension act of July 27, 1892.

Medical and other testimony accompanying the bill shows that the claimant is 89 years old, and so feeble that he is confined to his bed nearly all the time. It is further shown that he is wholly without means of support aside from his small pension.

There are many precedents for the allowance of an increased rating to the aged and dependent survivors of the old Indian wars, and in view of the facts set forth above the passage of the bill is recommended with the following amendments:

Change the title so as to read: "A bill granting an increase of pension to William Christenberry."

Before the word "company," in line 6, insert the words "Captain Miller's," and after the word "company," in same line, insert "Tennessee Volunteers, Indian war."

In line 7 strike out "twenty-five" and substitute "twenty."

LUCRETIA C. WARING.

APRIL 21, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUDENSLAGER, from the Committee on Pensions, submitted the following

REPORT.

[To accompany S. 104.]

The Committee on Pensions, to whom was referred the bill (S. 104) granting an increase of pension to Lucretia C. Waring, have considered the same and report:

The following facts are taken from Senate Report No. 314, this session:

The claimant is the widow of the late Lieut. Howard S. Waring, of the United States Navy, who, as shown by the records of the Navy Department, was appointed a midshipman June 20, 1867, graduating from the Naval Academy June 1, 1872. He was assigned to duty on the *Hartford*, and was successively promoted through the different grades to the rank held at the time of his death, which occurred on the 4th day of November, 1893. The medical inspector, United States Navy, in certifying to the cause of the soldier's death, says:

"Although the cause of his death has not been traced to any special act of duty, it is considered to have originated in the line of duty from exposure incident to his service in the United States Navy."

The claimant is now receiving a pension of \$25 per month under the general pension laws, but in view of the extraordinary service rendered by the soldier while second in command of the United States Arctic relief ship *Rodgers* while in search of the United States Arctic exploring ship *Jeannette*, and the exposure and privation incident to which undoubtedly resulted in the early death of the soldier, it is contended that the claimant should receive a larger pension.

In the report of the Secretary of the Navy for the years 1881-82 and 1882-83 the object and scope of the *Jeannette* relief expedition is fully set forth. It was organized under the act of Congress of March 3, 1891, and the *Rodgers*, the ship designated by the Secretary of the Navy for the expedition, sailed from San Francisco June 16 of that year. After cruising in the vicinity of Wrangell Island and the Siberian coast for several months without finding any trace of the missing parties, they proceeded to Cape Serdze, on the Siberian coast, put up a house, and left six of their party, under command of Master C. F. Putnam, to remain for the winter. The *Rodgers* then proceeded to the St. Lawrence Bay, Siberia, arriving on October 15, 1881, and went into winter quarters. On the 30th of November a fire broke out in the forehold of the vessel. All efforts to extinguish it proved unavailing, and the vessel was abandoned. The natives were hospitable, but their resources were limited, and to lessen the burden the officers and crew were distributed among five villages.

The following letter from Lieut. George M. Stoney, United States Navy, one of the officers of the late *Rodgers*, to the claimant, the authenticity of which is attested to, sets forth the sufferings endured by the soldier at this time:

NAVY-YARD, MARE ISLAND, CAL., May 10, 1895.

The late Lieut. H. S. Waring, United States Navy, was second in command of the late United States Arctic relief ship *Rodgers* when she was burned in the ice on the

coast of Siberia while in search of the United States Arctic exploring ship *Jeannette*. After the burning of the *Rodgers* the officers and crew had to take their chances for food and clothing among the Eskimos on the coast, as everything was lost with the ship.

As soon as the officers and crew were housed, the commanding officer, now Commander Berry, United States Navy, continued in search for the *Jeannette*, leaving the command to Lieutenant Waring. From that time until picked up in the spring by a whaler, some seven months afterwards, Lieutenant Waring did all in his power to save the command from starvation and exposure, a very difficult undertaking, as the natives were very short of food. He won the admiration, confidence, and love of all under him by his unselfish and worthy example. The suffering was beyond imagination. Living on a scant supply of seal and walrus meat, at times this meat would be putrid. Days and days we would go hungry, and some days no food at all. But in the blackest hours Lieutenant Waring would cheer the party and strive harder to lessen the sufferings. He fell a victim to the Arctic curse, scurvy, but still no murmur or decrease in energy.

One of the officers, Lieutenant Putnam, was lost on the ice. Lieutenant Waring turned over the command to me, and started out in the face of an Arctic winter in search of Lieutenant Putnam. He had nothing suitable for such a trip. Little food, scant clothing, and with scurvy destroying his vitality. He sent no one. He knew the danger, but went himself. Such bravery is unprecedented. His sufferings no one will ever know. His one thought—to save one of his command. He continued his search until he broke down and had to be dragged back. His first greeting to his command was to cheer them, when all knew that his heart was full, for he had failed to bring back Lieutenant Putnam. The poor fellow had frozen to death; thus we lost a gallant officer and a dear friend. No navy ever knew a more noble and gallant officer. He died from the effects of trying to do his duty, and in doing that he gave all an officer can give his country—he gave his life. If ever an officer deserves consideration from his country, Lieut. H. S. Waring does.

GEO. M. STONEY,

Lieutenant, United States Navy, one of the Officers, late Rodgers.

There can be no doubt but that the exposure, lack of food and clothing, and the hardships endured by the soldier resulted in so impairing his health that his death was hastened. There is evidence on file showing that he suffered from the effects of scurvy after his return; that he had a severe cough, ulcerated sore throat, catarrhal troubles, and deafness, from which he could get no permanent relief. The records of the Bureau of Medicine and Surgery in the Navy Department show that he was treated since 1886 for similar ailments. On the day of his death he had a fit of coughing which lasted for half an hour, and which finally resulted in hemorrhage of the lungs, from the effects of which he died. The present situation of the claimant is indicated in the following letter from Senator White, of California:

UNITED STATES SENATE,

Washington, D. C., April 31, 1896.

DEAR SENATOR: I called your attention a few days ago to the pension claim of Mrs. Waring. I know the lady very well. She is now residing with her parents in California. She has one child and has no means whatever. Her parents are not wealthy; on the contrary, their resources are exceedingly limited, and both are well advanced in years and can not be relied upon to support her always. Her husband was really the commander of the expedition referred to in the papers on file, during the most serious portion of the trip. He enjoyed splendid health, and was a strong and vigorous man prior to undertaking the privations incident to the discharge of his duty in the Arctic. Perhaps the amount in the bill is larger than usual, and I suggest, in view of the special reasons existing, that \$50 per month be allowed.

Yours, sincerely,

STEPHEN M. WHITE.

Hon. GEORGE L. SHOUP,

United States Senate, Washington, D. C.

The passage of the bill is respectfully recommended, with an amendment fixing the rate of pension at \$30 per month.

LINE OF THE ARMY.

APRIL 21, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 9878.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 9878) for the better organization of the line of the Army of the United States, having considered the same, recommend that the bill do pass with the following amendments:

Strike out the words "one hundred," in line 24, page 2, and insert "eighty-four."

Strike out of line 25, page 2, the words "twenty-two," and insert in lieu thereof "six," and add the following proviso:

Provided, That in the event of a call by the President for either volunteers or the militia of the country, the President is authorized to accept the quotas of troops of the various States and Territories, including the District of Columbia, as organized under the laws of the States and Territories, including the District of Columbia.

Insert after the word "promotion," in line 23, on page 4, the words "or honorable discharge."

Strike out all after the word "men," in line 1, on page 5, and insert the following:

and nothing contained in this act shall be construed as authorizing a permanent increase of the commissioned or enlisted force of the Regular Army beyond that now provided by the law in force prior to the passage of this act, except as to the increase of twenty-five majors provided for in section one hereof.

The committee begs to state that as reported herewith the bill authorizes the 25 regiments of the infantry arm of the service to be recruited up to a total of 31,800 enlisted men. It authorizes the recruitment of the 10 regiments of the cavalry arm of the service to a total of 12,000 enlisted men, the 7 regiments of the artillery arm of the service to be recruited to 16,457 men, and the engineer battalion of 5 companies to be enlisted up to 752 enlisted men, including 2 non-commissioned officers; which makes a total for these four arms of the service, when at a maximum strength, of 61,010.

The increase of officers provided for in the bill is—

First. Twenty-five majors, as provided in the first section of the bill, and these majors are a permanent addition to the commissioned officers of the Regular Army.

Second. One hundred and fifty commissioned officers, to provide for the 2 infantry companies in the third battalion for each of the 25 regiments of infantry.

Third. Eighty-four second lieutenants, being 1 for each of the 84 batteries of artillery when recruited to a war strength. These second lieutenants are only to be added in the discretion of the President, but assuming that the extra lieutenant is necessary and will be commissioned for each battery of artillery, it makes a total of commissioned officers in excess of the present number authorized by law of 259.

Of this number, as above stated, 25 are majors for the permanent second battalion, and the other 234 officers, it is provided in the last section of the bill, shall, on the conclusion of hostilities, be either absorbed by filling any vacancies existing in the other companies of the service or by an honorable discharge, as may be deemed necessary to reduce the commissioned officers of the Army to the number now provided for by the first section of this act.

The last section of the bill also provides for the reduction of the enlisted force of the Army to the number now provided for by law, so that if this bill as reported by the committee is adopted the only permanent increase in the Army will be the 25 majors.

We submit herewith also a letter from the Secretary of War to the committee and a statement of Lieutenant Wilcox.

WAR DEPARTMENT,
Washington, March 21, 1898.

SIR: Now that the bill to provide for temporarily increasing the military establishment of the United States in time of war, has passed the House of Representatives, I beg respectfully to point out the urgent necessity of prompt action on the Hull army reorganization bill (H. R. 9878).

The two measures are so intimately related that the enactment of one to the exclusion of the other would leave the system upon which we depend for carrying on a war incomplete and inharmonious. To illustrate, according to the former bill the volunteer force is to correspond in its organization to the Regular Army; yet the legal organization of that Army is obsolete, and is certainly wholly unsuited to a war situation. Again, in the matter of the pay of enlisted men, the Hull bill provides for an increase of one-fifth while the troops "are operating against an enemy." The volunteer troops are interested equally with regular soldiers in this and other provisions of the Hull bill.

The existing exigency is my excuse for requesting immediate attention to this important measure.

Very respectfully,

R. A. ALGER,
Secretary of War.

Hon. JOHN A. T. HULL,
Chairman Committee on Military Affairs, House of Representatives.

Remarks on the proposed organization of artillery, H. R. 9878.

[By C. De W. Willcox, first lieutenant, Seventh Artillery.]

The principle underlying the recommended organization of the heavy batteries is that each should contain within itself all the elements necessary to its efficient service. As these batteries are intended chiefly for service on the coast, it may and does happen that more frequently than not a battery will be required to serve isolated from other batteries. Manifestly it must be, to a certain extent, an independent organization, in the sense that it can not rely upon other units to supply its deficiencies.

To take up the proposed organization in detail, it is remarked, first, that it proceeds on the assumption that at least two reliefs must be supplied. The service of a seacoast battery in time of war will prove extremely arduous. Officers and men must be ready at any time, by day and by night, at a moment's notice to man their guns and to open fire. This requires never-ceasing watchfulness and instant readiness, since a fortified position as a rule will have to develop its full offensive power in the very shortest possible time after the hostile squadron or ship is sighted. In other words, the guns of one of our seacoast batteries, in time of war, will substantially have to be manned for twenty-four hours out of the twenty-four.

It requires no argument to show that if the authorized strength were just enough to man the guns and to perform the auxiliary services and no more, the service of the battery would break down, since it is of course impossible to keep one and the same set of men on duty continuously. They must be relieved just as a guard is relieved. Now, this relief is provided by the proposed organization. If approved by Congress, the respective seacoast batteries will have two complete shifts of non-commissioned officers and men. Let us note here that an ideal solution would consist in furnishing three reliefs, as is the case in foreign services, but it is thought by economy of effort two reliefs can be made to answer.

The proposed organization is imperatively necessary, however, for other and different reasons. Few people realize the vast amount of preparation necessary to fire a shot so that it will strike the target. The gun must be served and aimed, of course, but not only that, it must while in action be continuously supplied with ammunition. This ammunition must first be prepared. But this is not all. A shot that misses is worse than a shot wasted, and so the most accurate information possible must be obtained in order to aim the piece as it should be aimed if we would hit the enemy's ship. This information is furnished, as everyone knows, by the range finders, and the range-finder service calls not only for the observers themselves but for telegraph and telephone operators to transmit the observations to the guns. Furthermore, these observations will have to be immediately applied to the determination of the probable direction of motion of the vessel—the usual case in action between ships and forts. The list of auxiliary services is not yet exhausted, however.

In a first-class seacoast work a very considerable use of power, whether steam, electric, or water, will have to be made. We must then have the necessary personnel for handling the power. To illustrate: If we use steam, we must have engineers and firemen; if electricity in addition to the steam generators, we must have electricians for the dynamos, search and other electric lights, and for the electric appliances in general; and, in general, a modern high-power gun being in reality a machine, it is clear that each battery must have machinists able to keep the carriages and other mechanical appliances in condition and to repair them when necessary. Each of the auxiliary duties mentioned must have its special detail of men, and each, moreover, must have two reliefs, just as the men serving the actual piece. One engineer, for example, could not be expected to be in attendance continually upon his engine.

So far only the fighting elements of the battery have been brought forward, but there are others quite as important and quite as necessary to the efficiency of the battery—the men must be fed and clothed; their material wants in general provided for; the position must be guarded and policed; the barracks and public property generally cared for; and all these duties must be performed without trenching on the fighting strength of the battery, for otherwise it will not reach its highest efficiency, and it is the highest efficiency that the country expects and is entitled to expect.

In view of these considerations, it is believed that the proposed organization is both rational and economical. Let us see how this organization applies to a battery of two 10-inch or two 12-inch guns, constituting, as these guns do, the main direct-fire armament of our seacoast forts.

Nature of duty.

General service of the battery.....
{ 1 first sergeant.
 2 musicians.
 1 wagoner.
 2 artificers.

	One relief.			Two reliefs.		
	Ser-geants.	Corpo-rals.	Pri-vates.	Ser-geants.	Corpo-rals.	Pri-vates.
1. Service of the piece.....	2	2	28	4	4	56
2. Supply of ammunition.....	2	.....	20	4	.....	40
3. Range-finder service	2	2	2	4	4	4
4. Plotting board	1	.....	2	2	.....	4
5. Steam engine	1	1	3	2	2	6
6. Electric power	1	.....	5	2	.....	10
7. Machinists.....	1	.....	4	2	.....	8
8. Search light.....	1	.....	2	2	.....	4
9. Duties not susceptible of division into two reliefs, i. e., quartermaster, commissary, clerks, cooks, guard, police, litter bearers, and as a small reserve for sick and wounded and other casualties .....	.....	.....	.....	.....	.....	30
Total	11	5	66	22	10	162

The guiding principle in the distribution of noncommissioned officers has been to place a sergeant in charge of each kind of duty as enumerated.

The foregoing organization is based on a unit of two 10 or 12 inch guns. It applies equally well to the 8-inch, but as this piece is so much lighter, one battery with the organization here given will be adequate to the service of four 8-inch rifles, in full accordance with the intention of the War Department to assign to each battery either two 10 or 12 inch guns or four 8-inch guns. Experience may suggest changes in the distribution of duties from that given here, but it is safe to say that it will not suggest a reduction of numbers if we expect our seacoast batteries to develop their full power. And if they are not to develop their full power it is pertinent to ask why they were ever built.

FIELD BATTERIES.

In regard to field batteries, let us clear the ground once for all by stating that the number of guns to a battery, fixed the world over by a vast experience, including our own American experience, is six. To reduce this number would simply overturn not only the drill, which rests on a basis of six guns, but also the combat tactics, the organization, the relation of the field artillery to the other arms, and would give us, instead of a system thoroughly tested by the widest experience, an anomalous and vicious system, the only certain feature of which is that its results would be wholly uncertain.

The personnel, then, must be that required by a battery of six guns, as set forth in the proposed organization, if efficiency and economy are the results sought, and, as in the case of the coast batteries, it is inconceivable that anything short of the highest efficiency can be considered. Bearing this in mind, let us premise that a field battery must fight its guns, care for its men and horses on the march, in action, and in camp, and at all times keep its material in condition and in readiness to go into line of battle.

It is at once evident that these duties call for a full observance of the principle of division of labor, and hence require a considerable personnel for their proper execution. Let us see how the proposed organization satisfies the requirements of the case.

We have first of all a first sergeant for the general service of the unit, a quartermaster-sergeant who is responsible for the performance of the very important duties of the supply and distribution of rations and of forage, and a veterinary sergeant for the no less important duty of caring for the health of the horses. Six sergeants are required to act as chiefs of piece. Each of these is in immediate charge of a gun, and is continuously responsible for its efficient service and condition. Of the fifteen corporals six are needed to aim the pieces. No argument is needed to bring out the importance of this duty. The remaining nine are stationed one at each caisson or ammunition wagon, and have charge of the preparation and service of the ammunition. Two farriers are not excessive for the 147 horses of the battery. "No foot, no horse." The two artificers are practically machinists. Their business is to keep in repair, as far as possible, the breech mechanism and other parts of the material, should these be injured in action or on the march. The one saddler will obviously have his hands full in caring for the harness and the horse equipment generally. The two musicians, in addition to their duties in giving signals, also act as orderlies for the captain in communicating with his subalterns. The wagoner looks after the battery wagon and forge, together with the store wagon.

Of the 141 privates one carries the guidon or battery color, while 48 serve as drivers. There is a small reserve of drivers, 8 in all, found to be necessary by experience in the field. The remaining privates are cannoneers. Their duties consist in the service of the pieces themselves and in the preparation of ammunition under the direction of the caisson corporals. Others are employed in constructing epaulments or parapets when recourse is had to them to protect the guns, in clearing the way for the pieces over difficult or in wooded country, and others again in performing the service of ammunition supply when the store of the battery has to be replenished. Furthermore, as in the case of a seacoast battery, guards are necessary and so are cooks. Horses, too, must be fed, groomed, and watered. Lastly, the battery must contain within itself a sort of reserve to meet the various exigencies that present themselves in every situation.

No attempt is made here to specify the number of privates to be assigned to the various duties enumerated, because naturally these will vary according to circumstances. An assignment suited to one case would in all likelihood be wholly unsuited to another and a different case. Two things only are certain: The occurrence of unforeseen difficulties, and the necessity of overcoming them by the resources of the battery itself. And this necessity can be satisfied, as shown by experience, only by giving a field battery a sufficient personnel, the personnel set forth in the bill under consideration.

GEORGE E. WELLES.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 990.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 990) granting an increase of pension to George E. Welles, beg leave to submit the following report, and recommend that said bill do pass, with amendments.

This bill as amended proposes to increase from \$12 to \$40 per month the pension of George E. Welles, of Toledo, Ohio, who was mustered in as adjutant Sixty-eighth Ohio Volunteers, October 29, 1861, as major October 15, 1862, and as lieutenant-colonel May 17, 1863, and was mustered out July 10, 1865.

There is no record of disability or treatment while he was in the service. There is evidence, however, that he incurred disabilities therein.

He filed a claim March 17, 1892, under the Act of June 27, 1890, and has been pensioned under said act since date of application at \$12 per month for disease of spine.

May 14, 1894, he filed a claim under the general law for "a disease first called rheumatism, later developed and now called sclerosis of spine."

This was rejected May 9, 1896, on the ground that—

No record appears, and claimant declares his inability to file satisfactory evidence showing the existence of rheumatism or disease of spine while in service or for several years thereafter.

The only evidence tending to show existence in service is that of the sutler. A medical opinion attached to the face of the brief is as follows: The disease of spine shown in this case can not be accepted as due to rheumatism. It is very probable, however, that the early symptoms of locomotor ataxia from which he suffers were mistaken for rheumatism. In order to admit the claim medically an approval would have to be made for disease of spine or locomotor ataxia.

Claimant was 20 years of age when he entered the service as adjutant, was 21 when he became major, and 22 when he became lieutenant-colonel.

He states that he was constantly on duty with his regiment from start to finish, in every engagement, on every march, and never in hospital or on sick leave or absent from duty.

On February 12, 1865, while attempting to make a crossing over the Edisto River, near Orangeburg, S. C., he was in the ice-cold water from 2 p. m. to 9 p. m., and he thinks it was then he contracted what was at first called rheumatism, but what is now called sclerosis of spine.

The colonel and surgeon testify to the circumstance of exposure as alleged, but appear not to have known of the immediate development of the disease now present.

The surgeon testifies that claimant was indisposed for several days subsequently, he thinks from neuralgia and nervous prostration. Surgeon Bingham says he has no record of treatment given, nor a very distinct recollection of his symptoms. That in the latter part of February continuous excessive rains occasioned great exposure, especially in absence of shelter.

Col. G. F. Wiles, who was in command of the brigade, swears that claimant was in the ice-cold water not less than six hours on the day in question.

Henry Stelliner, of Toledo, Ohio, says that he was with the regiment as sutler, and that claimant complained to him of pains in back and joints while in service, the first being about the time they reached Goldsboro, N. C., and he has since complained of recurring rheumatic attacks. Mr. Stelliner is reported to be a creditable person.

This evidence, together with the testimony of neighbors as to condition since discharge, is sufficient to make it extremely probable that claimant's present disability is due to his nearly four years' hard service and his terrible exposure. No other cause is shown.

Claimant's rank would entitle him to \$30 for the same degree of disability that would entitle a private to \$8 if incurred in service, but in this case the degree of disability would entitle a private to at least \$30 if accepted as due to service, and perhaps \$50.

The testimony shows that he is totally disabled for manual labor; that he requires the aid of his wife in dressing; that he goes to bed by 8 o'clock every night and has to have massage treatment every morning before he can get out, and that he has to lie in bed all day Sunday that he may go to the court-house, where he is nominally court crier, for which he is said to get about \$1 per day during the sessions of the court.

It is stated that he has no income or means of support aside from the foregoing and his pension of \$12 per month.

It appears that prior to his service in the Sixty-eighth Ohio Volunteers claimant served as first lieutenant and paymaster Fourteenth Ohio Volunteers from April 27 to August 10, 1861.

He has been unable to control his bladder for some years.

A bill was favorably reported from this committee in the Fifty-fourth Congress to give this man \$30 per month. His disabilities are constantly increasing.

Your committee regard this as an exceptionally meritorious case and one deserving a substantial increase.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 6, after the word "roll," insert the words "and pay him a pension."

In line 6 strike out the word "fifty" and insert the word "forty."

Amend the title so as to read: "A bill granting an increase of pension to George E. Welles."

Army record of George E. Welles.

I served during the first three months' service as first lieutenant and paymaster of the Fourteenth Regiment Ohio Volunteer Infantry (Col. James B. Steedman); from April 27, 1861, to August 10, 1861, on detached duty in the Paymaster-General's Department of Ohio most of the time.

On October 21, 1861, I was appointed first lieutenant and adjutant of the Sixty-eighth Ohio Volunteer Infantry.

On July 5, 1862, I was appointed major of the Sixty-eighth Regiment Ohio Volunteer Infantry.

On May 16, 1863, I was appointed lieutenant-colonel of the Sixty-eighth Regiment Ohio Volunteer Infantry.

On June 20, 1864, I was appointed colonel of the Sixty-eighth Ohio Veteran Volunteer Infantry.

On March 13, 1865, I was appointed brevet brigadier-general by the President of the United States.

On July 18, 1865, I was mustered out and discharged with my regiment by reason of the close of the war.

I commanded the Sixty-eighth Regiment Ohio Volunteer Infantry from after the surrender of Vicksburg on July 4, 1863, to the muster out on July 18, 1865. I was present with this regiment from its organization to its final muster out and discharge; was with it in its every battle, engagement, or skirmish with the enemy and on all its marches, movements, and changes of position or camp. I never was reported sick or unable for duty for a single day while in the service.

I was present with this regiment and endeavored to do my duty in the following battles, engagements, and campaigns, extending on to the "sacred soil" of all of the rebel States, except Florida and Texas, viz: Fort Donelson, Shiloh, Corinth, Iuka, Metamora, Holly Springs, Campaign, Thompsons Hill, Raymond, Jackson, Champion Hill, Big Black; assaults, May 19 and 22, and siege of Vicksburg; Monroe raid, Meridian expedition. Reenlisted 485 of my men as veterans, and with them returned to the State of Ohio on veteran furlough in April, returning to the front on May 7, 1864, rejoining Sherman's columns at Big Shanty, Ga., on June 10, 1864, 780 strong. Took part in the assault and siege of Kenesaw and the engagement at Nickajack, Atlanta, July 22 and 28, and siege Jonesboro, Lovejoy, the chase after Hood, the march to the sea and through the Carolinas, participating in the engagements at Savannah, Pocataligo, Rivers Bridge, Orangeburg, Columbia, Cheraw, Bentonville, Raleigh. All this service being in the Second Brigade, Third Division (Logan's, Legget's, or Force's), Seventeenth Army Corps, Army of the Tennessee.

I base my claim for pension upon disabilities caused by exposures and hardships incident to my four years' campaigning, but more directly and specially from serious shock and exhaustion caused by my being in the ice-cold waters of the South Edisto River, while constructing a crossing or bridge over the same, on the 11th day of February, A. D. 1865, near Orangeburg, S. C., causing me to suffer an acute attack of neuralgia of the face and head at that time, and frequent periodical attacks of the most excruciating pains in my arms, body, and legs from that time until the present.

For the past thirty-two years I have had but few days or nights that I have been free from these spasms of acute, indescribable pains in my legs, and suffering from insomnia.

These attacks becoming more frequent and more serious of late years, finally culminating in December, 1892, in my falling from my chair while engaged at statistical work at my desk as secretary of the Duluth Board of Trade, at Duluth, Minn., my left leg being partially paralyzed and my entire nervous system in a state of prostration. For months afterwards I was on crutches and under treatment of the most celebrated specialists of the country, and have for the past five years kept up a systematic treatment of massage, electrical, cold salt-water baths, etc., so that I get around now with the aid of a cane; but have practically earned little or no income for the past five years, while my expenses for medical attendance and treatments run into thousands of dollars, so that financially I am about stranded.

For the past four years I have drawn a pension of \$12 per month, under the act of 1890. My claim for pension under the old law, based on my rank and grade in the Army, was rejected by the late "Cleveland" and "Lochren" administration for the reason that the records fail to show that I ever had the rheumatism in the service. I feel that if I am entitled to a pension at all I am entitled to it by reason of my disabilities, which I am convinced originated and were caused by the hardships, exposures, fatigues, and vicissitudes of my long and continuous service in the Army, and particularly from my exposures at Orangeburg, S. C., as stated; and since Congress has so recently provided so liberally and justly for the widows of some of my comrades and commanders, notably Gen. John A. Logan, Gen. Frank P. Blair, and many others, I indulge the hope that this claim of mine may meet with the same liberal

and generous treatment at their hands, as contemplated by the special bill of Hon. J. H. Southard in my behalf.

Very respectfully,

GEO. E. WELLES.

TOLEDO, OHIO, *December 4, 1897.*

STATE OF OHIO, *Lucas County, ss:*

Julia E. Welles, on oath, says that she is a resident of the city of Toledo, Lucas County, Ohio, and the wife of Gen. George E. Welles; that at the time of their marriage, in 1877, General Welles had great pain in his limbs and spine and that they increased almost constantly from that time till the present; that his pains during the past twenty years have been such that it was with great difficulty he could keep at any occupation for any length of time, and that much of his time he was so afflicted that it was impossible to attend to any business.

Affiant says that for many years past the said George E. Welles has been unable at times to move from his room without a massage or rubbing treatment, and that such was necessary in order that he might attend to his daily duties; and further, that it has been necessary for years for the said George E. Welles to remain in bed on Sunday and holidays, to get all the sleep and recuperation possible, to further enable him to transact business or assume any duties.

Affiant further says that for more than ten years past said George E. Welles has been unable to control his urinal and other organs, on account of which his cleanliness has been a subject of discussion, and that they have been unable on that account to occupy the same room.

Affiant further says that their family physicians, Doctors Coldham and Lungren, of Toledo, Ohio, both of whom are now dead, informed her that the condition of her husband was due to constant exertion and exposure during the war. And further affiant saith not.

JULIA E. WELLES.

Sworn to and subscribed before me this 7th day of April, 1898.

[SEAL.]

W. A. SHERER,
Notary Public for Lucas County, Ohio.

STATE OF OHIO, *Lucas County, ss:*

Personally appeared before me, a notary public in and for the county and State aforesaid, Dennison B. Smith, who to me is personally known, and who upon oath says that he has been a resident of the city of Toledo and vicinity for more than sixty years, and that he is by occupation the secretary of the Toledo Produce Exchange.

The affiant further states that he is well and intimately acquainted with Gen. George E. Welles, of Toledo, Ohio, and has been since about 1855; that his intimate relations and acquaintance with him has caused him to know of his physical condition.

Affiant states that soon after the close of the war Gen. George E. Welles was a sufferer from what he supposed was rheumatism, with severe pains in his limbs and spine; that these pains continued from that time till the present with more or less severeness, and that about eight years ago the said Welles suffered from a stroke of paralysis.

Affiant further deposes and says that the two physicians who treated him for his disabilities died before his application for pension; that in a conversation with one of them (Dr. Lungren), he distinctly informed the affiant that the said George E. Welles's infirmities were traceable to horseback riding and exposure during the war. And further affiant saith not.

DENNISON B. SMITH.

Sworn to and subscribed before me this 9th day of April, 1898.

[SEAL.]

W. A. KETCHAM,
Notary Public for Lucas County, Ohio.

STATE OF OHIO, *Lucas County, ss:*

David Robison, jr., being duly sworn, on oath says that he is a resident of the city of Toledo and has been since 1875, and that by occupation he is president of the Ohio Savings Bank and Trust Company, Toledo, Ohio; that he is well and intimately acquainted with Gen. George E. Welles, and he knows his condition and has known

of it since 1875; that he knew that General Welles had pains in his extremities and spine and walked in a lame and limping manner, and that he was stricken with paralysis, and that to-day, in his opinion, is almost helpless therefrom.

Affiant believes that the present condition of General Welles is due to exposure and injuries received during the war of the rebellion and from continuous riding in the saddle, extending over a period of three or four years.

DAVID ROBISON, Jr.

Sworn to and subscribed before me this 8th day of April, 1898.

[SEAL.]

W. A. KETCHAM,
Notary Public for Lucas County, Ohio.

STATE OF OHIO, *Lucas County, ss:*

John S. Kountz, on oath, says that he is a resident of the city of Toledo, Lucas County, Ohio, and has been for the past forty years; that he enlisted for the war and thereby became acquainted with Gen. George E. Welles, and has known him intimately ever since, and has known of his afflictions during that time; that he knows from personal knowledge of General Welles suffering great pains in his limbs and spine, and he knows that he was within the past ten years stricken with paralysis, and knows also of his being in a feeble condition.

Affiant further says that General Welles was colonel of the Sixty-eighth Ohio Volunteer Infantry, and he believes that his afflictions were induced by exposures and constant work in the saddle for more than four years; and further, that the integrity and character and past uprightness of General Welles is such that any statement he might make regarding his position or the causes of his afflictions would be true in every respect.

JOHN S. KOUNTZ.

Sworn to and subscribed before me this 8th day of April, 1898.

[SEAL.]

FRED. J. KOUNTZ,
Notary Public for Lucas County, Ohio.

STATE OF OHIO, *Henry County, ss:*

Personally appeared before me, a notary public in and for the county and State aforesaid, R. K. Scott, who on oath says that he is a resident of Napoleon, Henry County, Ohio, and has been for more than forty years past, and that he is retired from general business; that he was commissioned for the war as colonel of the Sixty-eighth Ohio Volunteer Infantry, was promoted to brevet major-general, and after the fall of Vicksburg he commanded the Second Brigade, Third Division, Seventeenth Army Corps; that during the entire war Gen. George E. Welles was with him and in his command, and upon his promotion General Welles succeeded to the colonelcy of the Sixty-eighth Ohio.

Affiant further says that he is well and intimately acquainted, and has been for more than thirty-five years, with Gen. George E. Welles, and that during all the time of the war General Welles was in the saddle and subject to exposure, from the result of which he believes that his present afflictions and paralysis are due.

Affiant further says that he knows that the physicians under whose care General Welles was after the close of the war, namely, Drs. Coldham and Lungren, of Toledo, are both dead, and that it is impossible to get an affidavit of his condition at the close of the war, but affiant says that from the character and standing of General Welles any statement he might make regarding his condition and the causes of his troubles are truthful and with no deviation.

R. K. SCOTT.

Sworn to and subscribed before me this 8th day of April, 1898.

[SEAL.]

W. A. HANNA,
Notary Public for Henry County, Ohio.

STATE OF OHIO, *Lucas County, ss:*

Personally appeared before me, a notary public in and for the county and State aforesaid, Dr. J. T. Woods, who on oath says that he has been for more than forty years past a practicing physician and surgeon; that for the past several years he has been and now is the health officer of the city of Toledo, and for several years past has been and is now the professor of surgery in the Toledo Medical College;

and the affiant writes the following, which is herein transcribed, to which he testifies to be true, to the best of his knowledge and belief:

"This certifies that I have this day examined Col. George E. Welles, of the Sixty-eighth Ohio Veteran Volunteer Infantry, who gives me the following personal history: The term of service was four years and three months continually at the front, in the campaigns of Fort Donelson, Shiloh, Corinth, Holly Springs, Vicksburg, Atlanta to the Sea, etc.

"Numerous occasions of severe strain and exposure occurred during this experience, and especially so at the crossing of the Edisto River, at Orangeburg, S. C., on February 11, 1865, where the construction of the bridge required him to stand in the ice-cold water from early morning until 9 o'clock at night.

"The immediate results of this exposure were a severe neuralgia, with swollen face, and the general damaged constitutional condition from which recovery was never complete. This damaged condition persisted to the end of his service, the affliction being borne without hospital record, and has since been diagnosed and treated as muscular rheumatism by excellent physicians, both of whom I knew well and who are now dead.

"About August, 1890, he suffered from an apoplectic seizure, since which time his physical and mental impairment have more rapidly increased, his left side being in a state of partial, yet well defined, paralysis.

"He has almost no power of control over his urine, which is frequently voided in bed or in his clothing, and his bowels, on the contrary, are constipated.

"My intimate acquaintance with Colonel Welles for more than thirty years warrants me in avowing my entire belief in every statement set forth in his recital and examination.

"This examination shows him to be a completely broken down man. His movement is slow and unsteady, with the support of a cane, the body with each step swinging to the right, a result of the left-side paralysis. Compared with his former self, the face is haggard, the mental action sluggish.

"The left thigh is at various points from 1 to 1½ inches smaller than the right, which is also manifestly reduced in size.

"The error of Colonel Welles in this connection lies in the fact that out of pride and determination to do his duty he failed to make a hospital record; but from personal knowledge of the man, the statements made by him, and the facts discovered by examination as herein set forth, I have no hesitancy in giving it as my opinion that his present condition and affliction had its origin in the service, and that it might be truthfully fixed on the day of his long exposure in the cold and icy waters at Edisto River, South Carolina, on February 11, 1865.

"He is totally disabled, and his condition will undoubtedly grow continually worse, finally rendering him entirely helpless."

J. T. WOODS, M. D.

Sworn to and subscribed before me, a notary public in and for the county aforesaid, this 8th day of April, 1898.

[SEAL.]

W. A. KETCHAM,
Notary Public.

STATE OF OHIO, *Lucas County*, ss:

Julia E. Welles, on oath says that she is a resident of the city of Toledo, Lucas County, Ohio, and the wife of Gen. George E. Welles; that at the time of their marriage, in 1877, General Welles had great pain in his limbs and spine, and that they increased almost constantly from that time till the present; that his pains during the past twenty years have been such that it was with great difficulty he could keep at any occupation for any length of time, and that much of his time he was so afflicted that it was impossible to attend to any business.

Affiant says that for many years past the said George E. Welles has been unable at times to move from his room without a massage or rubbing treatment, and that such was necessary in order that he might attend to his daily duties, and, further, that it has been necessary for years for the said George E. Welles to remain in bed on Sunday and holidays to get all the sleep and recuperation possible to further enable him to transact business or assume any duties.

Further, that he, the said Welles, requires, and has required for a long time past, her aid and her care in dressing, and for seven years has almost daily "cupped" his spine and given electrical treatment; that he has taken more than 900 massage baths, and on account of the lack of money he has been unable to continue them, and, further, that he, the said Welles, is actually in need at times of a nurse to aid him in the mornings and nights, and for the same reason (namely, lack of funds) is unable to obtain said nurse.

Affiant further says that for more than ten years past said George E. Welles has been unable to control his urinal and other organs, on account of which his cleanli-

ness has been a subject of discussion, and that they have been unable on that account to occupy the same room.

Affiant further says that their family physicians, Doctors Coldham and Lungren, of Toledo, Ohio (both of whom are now dead), informed her that the condition of her husband was due to constant exertion and exposure during the war. And further affiant saith not.

JULIA E. WELLES.

Sworn to and subscribed before me this — day of April, 1898.

[SEAL.]

W. A. SHERER,
Notary Public for Lucas County, Ohio.

STATE OF OHIO, *Lucas County*, ss:

Henry S. Bunker, being first duly sworn, says that he is 55 years of age, and is by occupation an attorney at law, and is engaged in the practice of law in the city of Toledo, Ohio, where affiant says he has resided for more than thirty years, and that he has been personally and intimately acquainted with Gen. George E. Welles, late colonel of the Sixty-eighth Regiment Ohio Volunteer Infantry, for nearly or quite thirty years; that during all of said period of thirty years said George E. Welles has been a man of excellent personal habits, and that during all of said period of thirty years said Welles has had the appearance of one suffering from serious physical disability.

Affiant further says that he has upon many occasions during said thirty years been told by said Welles, that he, the said Welles, was suffering from physical disability caused by hardships and exposures incident to active military service during the war of the rebellion.

Affiant further says that said George Welles is now and for many years last past has been suffering from physical disabilities which render it impossible for him, the said Welles, to perform physical labor or to do other work necessary to be done by him in order to earn money sufficient to support his family and himself.

Affiant further says that from personal observation, and from information communicated to him by the attending physician of said George E. Welles, he has good reason to believe, and does believe and asserts the fact to be, that the physical disabilities from which said George E. Welles now suffers, and for more than thirty years last past has suffered, are due entirely to exposures, privations, and injuries incident to active service in the Army during the term of service of said Welles in said Sixty-eighth Regiment Ohio Volunteer Infantry.

HENRY S. BUNKER.

Sworn to before me and signed in my presence this 11th day of April, A. D. 1898.

[SEAL.]

LYMAN N. WACHENHEIMER,
Notary Public, Lucas County, Ohio.

The first part of the chapter discusses the importance of the study of the history of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The second part of the chapter discusses the role of the government in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The third part of the chapter discusses the role of the courts in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The fourth part of the chapter discusses the role of the military in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The fifth part of the chapter discusses the role of the economy in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The sixth part of the chapter discusses the role of the culture in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The seventh part of the chapter discusses the role of the education in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The eighth part of the chapter discusses the role of the science in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The ninth part of the chapter discusses the role of the art in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

The tenth part of the chapter discusses the role of the religion in the development of the United States. It is a subject that is often overlooked, but it is one that is essential to a full understanding of the country and its people.

BETTIE HORD BROWN.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1472.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1472) granting an increase of pension to Bettie Hord Brown, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$17 to \$30 per month the pension of Bettie Hord Brown, of Frankfort, Ky.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1472) entitled "A bill granting increase of pension to Mrs. Bettie Hord Brown," report as follows:

Col. Orlando Brown served as first lieutenant and adjutant of the Twenty-second Regiment of Kentucky Infantry Volunteers from December 12, 1861, to the 16th day of April, 1862. He served as lieutenant-colonel of the Fourteenth Kentucky Infantry Volunteers from January 23, 1863, to August 9, 1864, when he resigned on account of ill health. His widow, Mrs. Bettie Hord Brown, was granted a pension by the Pension Bureau, as the widow of an adjutant, and in the preparation of the evidence before that Bureau it was made to appear that Colonel Brown contracted the disease from which he afterwards died while acting as adjutant, and although evidence was subsequently submitted to the Bureau tending to show that the original proof was a mistake, and that the seeds of his fatal illness were implanted in his system long after he had ceased to act as adjutant and while he was serving the country as a lieutenant-colonel, such evidence was not deemed satisfactory by the Pension Bureau.

The evidence before this committee shows that his comrades in the Twenty-second Regiment had no knowledge of his being sick or diseased during the time he acted as adjutant of that regiment, and it is proved by Capt. T. D. Markham, who was well acquainted with Colonel Brown, and who commanded Company K of the Fourteenth Regiment, that when he joined that regiment in 1862 he appeared to be enjoying good health, and continued in good health until the spring of 1864, when his health began to fail, and this decline continued until he resigned, as before stated.

To the same effect is the testimony of Capt. J. M. Atkinson, who commanded Company I of the Fourteenth Kentucky Regiment. The medical officers of both the Twenty-second and Fourteenth have long been dead, and it is now impossible to procure their testimony.

All the facts considered, it seems to be satisfactorily proved that Colonel Brown did not contract the disease on account of which the pension was granted while serving as adjutant of the Twenty-second Regiment, but did contract it while serving as lieutenant-colonel of the Fourteenth Regiment.

In this view, the bill directing that Mrs. Brown shall be paid a pension at the statutory rate to widows of lieutenant-colonels—that is, \$30 per month—is favorably reported.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7 strike out the word "allow" and insert in lieu thereof the word "pay."

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GEORGE D. PHINNEY.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4315.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4315) granting an increase of pension to George D. Phinney, have examined the same and the evidence on file at the Pension Bureau and that filed with this committee and respectfully report:

This bill as amended proposes to increase from \$30 to \$36 per month the pension of George D. Phinney, of Eagle, Wis.

This soldier was enrolled July 20, 1861, as a musician, Company A, Seventh Wisconsin Volunteer Infantry, to serve three years. From September 15, 1862, to November 20, 1862, he was sick and in hospital at Philadelphia, Pa., when he was discharged on a surgeon's certificate of disability by reason of his extreme youth and general debility. The records do not show the disease from which he suffered, but the fair inference is that it was debility produced by the hardships endured during his service, as he was healthy when he entered the service, and there is nothing to show that his sickness was the result of any improper conduct on his part.

The soldier was again enrolled as a private January 4, 1864, in the same company and regiment to serve for three years, and he was present and on duty with his company until May 5, 1864, when he was shot through the hand seriously at the battle of the Wilderness, and a few days later he received another wound at Laurel Hill. He was sent to hospital and under treatment for these wounds until July 5, 1864, when he returned to duty. July 12, 1862, while on the skirmish line in front of the defenses at Washington, he was shot through the arm and suffered amputation thereof the same day, and was admitted to Douglas General Hospital July 18, 1864. He was discharged from the service October 8, 1864, by reason of the loss of his left arm. He was evidently a faithful and determined soldier.

The evidence in the case shows that the arm is useless, as he can not use the stump for any useful purpose and can not wear an artificial

arm or hand; that the stump is tender, the nerves being involved, and that he has suffered almost constant pain since the amputation. The evidence further shows that as a result of the wound and amputation above described the soldier now suffers from a numbness in the stump of the arm, the shoulder, and side, and that he is totally disabled from the performance of any kind of manual labor. One physician says that the nervous trouble closely resembles creeping paralysis, and that same unfits him for any kind of work. The soldier suffers from insomnia, and the trouble seems to be increasing. These conditions are such that might reasonably be expected from the result of the wound and the amputation and the condition in which the stump was left.

Colonel Gill, under whose command he was when he received the gunshot through the arm, states:

The conduct of this lad throughout was heroic in the extreme. If consistent with the good of the service, I have the honor to request that he may be transferred to a hospital at Madison, Wis.

The colonel also states that the soldier deserves special consideration, as he left the hospital and joined the command at the time he was wounded. Many of the citizens where the soldier resides unite in asking an increase of this soldier's pension. He is a man of good character, and none of his disability is due to any improper conduct on his part.

Dr. J. J. Fitzgerald states that the numbness in the side is due, in his judgment, to the wound, and that the soldier has for many days been totally disabled from performing labor, either mental or physical. In all probability this soldier will have a \$50 disability of service origin at no distant day, but your committee does not feel justified in anticipating such a condition, but is of the opinion that the case is one where an increase to \$36 per month is fully justified by the evidence.

The bill is therefore reported back, with the recommendation that it pass, when amended as follows:

In line 5, after the word "the" and before the word "limitations," insert the words "provisions and."

In line 7 strike out the words "of forty-five" and insert in lieu thereof the words "at the rate of thirty six."

NANCY G. ALLABACH.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1702.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1702) granting an increase of pension to Nancy G. Allabach, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$8 to \$30 per month the pension of Nancy G. Allabach, of Washington, D. C.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1702) granting an increase of pension to Nancy G. Allabach, have examined the same and report:

A similar bill passed both Houses of Congress during the first session of the Fifty-fourth Congress, and was vetoed by the President. It was again taken up in the Senate and passed over the President's veto, but failed to pass the House, two-thirds not voting for its passage. Your committee recommend the passage of the bill, adopting the Senate report in the Fifty-fourth Congress, which report is as follows:

"The military record of Peter H. Allabach, who served as colonel One hundred and thirty-first Pennsylvania Volunteers, and also in the Mexican war, is as follows:

"Peter H. Allabach was mustered into service as colonel One hundred and thirty-first Pennsylvania Infantry Volunteers August 18, 1862, to serve nine months; was in command of the Third Provisional Brigade from August 22, 1862, to October 10, 1862, and of the Second Brigade, Third Division, Fifth Army Corps, from October 16, 1862, to May 14, 1863; and was mustered out of service with the field and staff of his regiment May 23, 1863.

"The records on file in the office of the Adjutant-General of the Army show that Peter H. Allabach was enlisted in Company K, Third United States Infantry, at Philadelphia, Pa., November 25, 1844; was transferred to Company E, same regiment, September, 1849, and was discharged from the latter company, as a sergeant, at Paso del Norte, N. Mex., November 25, 1849, by reason of expiration of term of service.

"Your committee, having become satisfied that the only income petitioner has is the Mexican war pension of \$8 per month, and that she is supported by the charity of friends, therefore recommend the passage of the bill."

The bill is therefore reported back with the recommendation that it pass.

THOMAS D. PORTER.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BARBER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 3612.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3612) entitled "A bill to increase the pension of Thomas D. Porter," beg leave to submit the following report, and recommend that said bill do pass with amendments.

This bill proposes to increase from \$12 to \$30 per month the pension of Thomas D. Porter, of Malcom, Iowa.

The soldier served in Company C, Twenty-fifth Illinois Volunteer Infantry, and Company A, Seventh Illinois Volunteer Cavalry, and also in Battery E, Fifth United States Artillery, from June 1, 1861, to September 5, 1864; from February 15, 1865, to November 4, 1865, and from June 1, 1867, to June 1, 1870.

He is now pensioned at \$12 per month under the act of June 27, 1890, for disease of lungs. He has never applied under the general law, and his disease of lungs can not be shown to be due to service, although it is probable that his army service and hardships are the producing causes.

Examination in 1891 shows that he is wholly disabled and under the physician's care. His age is about 56.

The evidence shows that he is very poor; that he has a wife to support who is in a most deplorable condition, and no one on whom they can rely for support.

His long and faithful service all through the war, and for three years thereafter, entitle him to consideration.

Your committee can and do waive the technical defects of evidence.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Cavalry," insert the words "and pay him a pension."

In line 8, before the word "limitations," insert the words "provisions and."

MONTEZUMA, IOWA, *June 21, 1897.*

DEAR SIR: Thomas D. Porter, a soldier living at Malcom, this county, is now drawing \$12 per month, the full amount under act June 27, 1890, under certificate No. 806514. He served first in Company C, Twenty-fifth Illinois Volunteer Infantry, for three years and three months; reenlisted February 15, 1865, in Company A, Seventh Regiment Illinois Cavalry, and was discharged November 4, 1865. He is now afflicted with lung disease, and is totally unable to do anything whatever. He is weak, short of breath, and emaciated, and weighs 105 pounds, his former weight being 160 pounds. He has a wife that is in as deplorable condition as he is, she being afflicted with incurable tumors in her stomach, and has had them for three years. They are past living on the \$12 per month, as it will not pay the doctor bills, and if he can not get relief from Congress in a special way will be obliged to go on the county or to the Soldiers' Home. They have no means whatever; no real estate and no personal property. As to evidence of his condition, it can be gotten; also as to his wife. No other family except soldier and wife. A claim for pension under old law can not be established in his case. It can not be shown that his lung trouble originated in his army service. He came into my office this morning and wanted me to write you about his case. Can we get a special pension for him through Congress; if so, what papers and what evidence will be required in his case?

His address is Malcom, Poweshiek County, Iowa.

Please let me know what, if anything, can be done.

Yours, truly,

H. F. MORTON.

Hon. JOHN F. LACEY.

○

LIZZIE WALTZ.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8037.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8037) entitled "A bill granting a pension to Lizzie Waltz," beg leave to submit the following report, and recommend that said bill do pass, with an amendment to the title.

The effect of this bill is to increase from \$12 to \$30 per month the pension of Lizzie Waltz, of Baraboo, Wis., the widow of Levi Waltz, late a private in Company D, First Battalion, Nineteenth United States Infantry, who served from March 11, 1864, to March 11, 1867, and was honorably discharged.

Soldier filed and established a claim under the general law, and was pensioned for disease of throat and chest, result of typhoid fever, at \$8 per month, from June 19, 1886; \$30 from June 24, 1889; \$50 from September 19, 1889, and \$72 from March 4, 1890.

He died March 18, 1890, and this claimant was pensioned as his widow at \$12 per month under the general law.

Evidence filed with this committee shows that on or about July 1, 1863, at Hanover, Pa., claimant was on Frederick street, circulating around among the soldiers, giving food which she had spent all day Sunday and Sunday night in preparing for that purpose, to the soldiers of Kilpatrick's Cavalry. While so doing a detachment of rebel cavalry charged on them, and in the charge she was either struck with a bullet in the left ankle or it was cut by a shoe of a horse. She was knocked down, trampled upon by the horses, and lost consciousness. She was pulled out from under the horses by a Union soldier and taken to a house where she was attended by a physician. She states that her wound required the frequent attendance of a physician and a nurse for fifteen years following its incurrence and she was obliged to use crutches or a cane to walk, not being able to bear her weight upon this limb. Nor is she now able to. She has been obliged to keep it bandaged continually and to wear splints most of the time to keep it in place, and it requires more than her pension to pay doctor's bills and for medicines.

She is unable to perform any manual labor for her support. Her husband was an invalid for two years before his death, requiring constant medical attention, so that she was compelled to sell her home and farm to pay for the same, and at the present time has no property nor income except her pension.

A photograph of the injured member has been filed with the committee for inspection.

The women who served as nurses to our sick and wounded soldiers and those who went to the battlefield and fed them when contending against the enemy and braved the dangers and received wounds while so engaged are entitled to the highest consideration of this Government.

This case is most meritorious and is exceptional. Nothing but Congressional action can give adequate relief to this brave and devoted woman.

The bill is reported back with the recommendation that it pass when amended as follows:

Amend the title so as to read, "A bill granting an increase of pension to Lizzie Waltz."



MATILDA WAEDEL.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WARNER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9755.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9755) entitled "A bill for the relief of Matilda Waedel," beg leave to submit the following report, and recommend that said bill do pass with an amendment:

This bill proposes to pension at \$8 per month Matilda Waedel, of Milwaukee, Wis., the widow of Ferdinand Waedel, private, Company H, Thirty-fifth Wisconsin Volunteers. Soldier served in Company E, Second Michigan Cavalry, from September 8, 1861, to March 27, 1863, when discharged on surgeon's certificate of disability on account of "chronic rheumatic affection of joints of lower extremities, so that he is unable to walk properly. Had intermittent fever about four months, and the rheumatic affection is probably a sequela of that disease. Off duty since July 1, 1862, but was prisoner three months and nineteen days of that time."

He again enlisted February 8, 1864, in Company H, Thirty-fifth Wisconsin Infantry, and was mustered out March 15, 1866.

Soldier does not appear to have ever filed a claim for pension in the Pension Office. The widow, who is German, has very little knowledge of the English language, and had none until recently. She filed a claim under the act of June 27, 1890, which was approved for admission April 19, 1893, after which action was suspended. The claim was sent to the field for special examination, and August 22, 1893, it was submitted for admission by the special examiner but was rejected August 30, 1893, on the ground that after special examination the evidence fails to show the date or cause of death of soldier.

It was reopened, further specially examined, and again rejected January 8, 1897, on the ground that the best evidence obtainable on special examination is not deemed sufficient to warrant presumption of soldier's death.

It appears that about September 15, 1873, the soldier left his home

in Milwaukee to go to Michigan for the purpose of securing work. The widow swears that he was to go on the *Ironsides*. The *Ironsides* foundered, and many of those on board were lost. Of those drowned some of the bodies were recovered and some were not. Soldier has never been heard from since that time. One witness testifies that he walked down with claimant when he was going to take passage on the *Ironsides*; stayed with him until he got on the boat; saw him on the boat when it started and after it had left the wharf. It is a matter of record that the vessel was lost on the 15th of September, 1873, twenty-four and one-half years ago, and since that time no traces of the soldier have been found, although claimant made every effort to find him, and advertised for him. Inquiry among the German friends of the soldier has failed to elicit any information indicating his existence since the date above given. Nor has any information been obtained to indicate that the soldier had any reason for leaving his home or his family other than that of looking for work. He was under no charge of any kind, and his relations with his family appear to have been perfectly pleasant.

The Pension Office says the evidence is not sufficient to justify presumption of death. In our opinion everything relating to the case leads to the presumption of death at the time and place stated, and there is, so far as we can find, absolutely nothing to rebut that presumption.

The claimant is clearly entitled to a pension of \$8 per month and her claim should have been allowed at the Bureau.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "pension," insert the words "at the rate."

Amend the title so as to read: "A bill granting a pension to Matilda Waedel."

RESTORING CERTAIN LANDS TO THE PUBLIC DOMAIN.

APRIL 22, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. EDDY, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany S. 2755.]

The Committee on the Public Lands, to whom was referred Senate bill 2755, report the same back with the recommendation that it do pass.

The report of the Senate committee is hereto attached and made a part of this report.

[Senate Report No. 417, Fifty-fifth Congress, second session.]

The Committee on Public Lands, to whom was referred the bill (S. 2755) to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law with certain restrictions, beg leave to report as follows:

By Executive order No. 872, of November 28, 1881, certain lands in northern Minnesota, around the head waters of the Mississippi River, were withdrawn from sale and entry by reason of the fact that they would be needed for reservoir purposes, and were likely to be overflowed in consequence of the construction of such reservoirs. A copy of said order is hereto attached and made a part of this report.

The reservoirs in contemplation of construction at the time said order was issued have long since been completed, and it is now found that, with the exception of two tracts of land, none of the rest have been used or will be needed for the reservoirs, or are likely to be overflowed by the reservoirs. There is, therefore, no good ground for further withholding these lands from sale and entry under our public-land laws.

The object of the bill under consideration is to restore these lands to the public domain for sale and entry under the homestead law.

The War Department, under whose jurisdiction these lands have remained since their withdrawal, has prepared and approved of the bill, as appears from the following indorsements by the Chief of Engineers and the Secretary of War upon a letter in respect to this matter to the Secretary of War from Senator Nelson:

OFFICE CHIEF OF ENGINEERS, UNITED STATES ARMY,
February 23, 1897.

Respectfully returned to the Secretary of War.

Hon. Knute Nelson, United States Senate, desires to know if there is any objection to the restoration to the public domain of certain land reserved by the Government for use in connection with the construction of a reservoir and dam on Leech Lake, head waters of the Mississippi River; also, in what way said land can be restored. The land in question was withdrawn from sale or disposal by Executive proclamation, No. 872, dated November 28, 1881 (copy herewith), for the work above mentioned, and there appears to be no objection to the restoration of the land to the public domain, with the exception of lot 7 of section 33, and lot 5 of section 34, township 144, range 28, upon which the south end of the Leech Lake reservoir dam rests, provided such restrictions are imposed as will reserve to the Government the right to overflow the land and protect it from any claims to compensation for such overflowing. An act of Congress approved June 20, 1890, authorized the restoration of certain other reservoir lands in this locality, and contains the provisions and

restrictions deemed essential in this case. A draft of a bill, drawn on the lines of this act, is submitted herewith, and it is believed that it will accomplish the purpose desired by Senator Nelson, and protect the Government's interest in the reservoir and dam.

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, United States Army.

WAR DEPARTMENT, *February 24, 1897.*

Respectfully returned to the Hon. Knute Nelson, United States Senate, inviting attention to the preceding indorsements hereon and to the inclosed papers therein referred to.

DANIEL S. LAMONT, *Secretary of War.*

Your committee accordingly recommend the passage of the bill, with the following amendments:

(1) Strike out all of section 2 after the word "it," line 8, and insert the following in the place thereof: "and in all cases where first or preliminary homestead entries have been made of the lands hereby restored, and the entrymen have attempted to make final proof and final entry, such entrymen shall have a preferred and prior right to enter such lands under the homestead law on showing a compliance with the requirements of said law as to settlement, cultivation, proof, and payment."

(2) After the word "kind," in line 1 of section 3, insert the following: "except as specified in the foregoing section."

The object of these amendments is to protect the rights of inchoate homestead settlers who have been permitted to make preliminary entries, but have not been allowed to perfect the same.

(No. 872.)

PROCLAMATION

BY THE PRESIDENT OF THE UNITED STATES WITHDRAWING FROM SALE OR DISPOSAL CERTAIN LANDS IN THE STATE OF MINNESOTA.

Whereas, by the provisions of the second section of an act of Congress entitled "An act making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," approved June 18, 1878, the Secretary of War was directed to cause "an examination" to be made "of the sources of the Mississippi River and of the Saint Croix River in Wisconsin and Minnesota, and of the Chippewa and Wisconsin rivers in the State of Wisconsin, to determine the practicability and cost of creating and maintaining reservoirs upon the headwaters of said rivers and their tributaries for the purpose of regulating the volume of water and improving the navigation of said rivers and that of the Mississippi River, and an estimate of the damage to result therefrom to property of any kind," and by the provisions of the acts of March 3, 1879, June 14, 1880, and March 3, 1881, appropriation was made for the completion of the survey above referred to and the construction of said reservoirs; and

Whereas it appears by the report of the United States engineer having in charge the survey provided for by said act, which report was made to the Secretary of War, and dated Saint Paul, Minnesota, November 4, 1881, that certain vacant public lands of the United States in the State of Minnesota will be affected in the event of affirmative Congressional action upon said matter, and which action by the appropriations aforesaid has now been taken: Therefore,

I, Chester A. Arthur, President of the United States, do hereby direct that the following-described public lands in the State of Minnesota, being lands referred to in said report, be withheld from sale or disposal under the various acts for the sale and disposal of the public lands:

St. Cloud, Minnesota, land district.

Parts of section.	S.	T.	R.	Remarks.
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$	11	144	32	West of 5th P. M.
W. $\frac{1}{2}$ NE. $\frac{1}{4}$	11	144	32	
W. $\frac{1}{2}$ SE. $\frac{1}{4}$	11	144	32	
Lots 3 and 4.....	11	144	32	
NE. $\frac{1}{4}$ SW. $\frac{1}{4}$	11	144	32	
Lots 2, 3, and 4.....	14	144	32	
W. $\frac{1}{2}$ NE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ SE. $\frac{1}{4}$	14	144	32	
SW. $\frac{1}{4}$ NW. $\frac{1}{4}$	21	144	32	

St. Cloud, Minnesota, land district—Continued.

Parts of section.	S.	T.	R.	Remarks.
Lot 3.....	25	144	32	
Lot 11 and NW. $\frac{1}{4}$ SW. $\frac{1}{4}$	26	144	32	
W. $\frac{1}{2}$ SW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ SE. $\frac{1}{4}$	27	144	32	
Lots 3, 8, and 9, and NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, and SE. $\frac{1}{4}$ SE. $\frac{1}{4}$	28	144	32	
Lot 2, NE. $\frac{1}{4}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, and W. $\frac{1}{2}$ SE. $\frac{1}{4}$	29	144	32	
Lots 2, 3, 4, 8, and N. $\frac{1}{2}$ SE. $\frac{1}{4}$	33	144	32	
Lots 5, 8, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, and N. $\frac{1}{2}$ SW. $\frac{1}{4}$	34	144	32	
S. $\frac{1}{2}$ NW. $\frac{1}{4}$ and N. $\frac{1}{2}$ NE. $\frac{1}{4}$	35	144	32	
Lot 9.....	1	143	32	
Lot 2.....	12	143	32	
SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, SE. $\frac{1}{4}$, and SE. $\frac{1}{4}$ SW. $\frac{1}{4}$	34	143	32	
E. $\frac{1}{2}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, and NW. $\frac{1}{4}$ SE. $\frac{1}{4}$	35	143	32	
Lots 5, 6, 7, 8, 9, and SE. $\frac{1}{4}$ NW. $\frac{1}{4}$	1	142	32	
Lots 1, 2, 3, 4, 6, 7, 8, and 9.....	2	142	32	
Lots 2, 3, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, and SE. $\frac{1}{4}$ NW. $\frac{1}{4}$	3	142	32	
NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, and lots 1, 2, and 3.....	11	142	32	
Lots 1, 2, and SE. $\frac{1}{4}$ NW. $\frac{1}{4}$	12	142	32	
Lots 1, 2, and 3.....	7	142	31	
Lots 2, 3, 4, and 5.....	8	142	31	
Lots 2, 3, and 4.....	9	142	31	
All of.....	15	142	31	
Lot 6.....	2	141	31	
Lot 11.....	11	141	21	
Lot 8.....	13	141	31	
Lot 2.....	14	141	31	
Lots 4, 5, 6, and 7.....	29	144	28	
All of.....	31	144	28	
All of.....	32	144	28	
Lot 7.....	33	144	28	
Lots 4, 5, 6, 8, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, and SW. $\frac{1}{4}$	33	144	28	
Lot 5.....	34	144	28	
Lot 5.....	39	144	28	
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, and W. $\frac{1}{2}$	4	143	28	
All of.....	5	143	28	
All of.....	6	143	28	
All of.....	7	143	28	
All of.....	8	143	28	
W. $\frac{1}{2}$ SE. $\frac{1}{4}$ and E. $\frac{1}{2}$ NE. $\frac{1}{4}$	9	143	28	
SW. $\frac{1}{4}$ SW. $\frac{1}{4}$	10	143	23	
W. $\frac{1}{2}$ SW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ SW. $\frac{1}{4}$	13	143	28	
S. $\frac{1}{2}$ SE. $\frac{1}{4}$ and S. $\frac{1}{2}$ SW. $\frac{1}{4}$	14	143	28	
W. $\frac{1}{2}$ SE. $\frac{1}{4}$	15	143	28	
N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$, and E. $\frac{1}{2}$	17	143	28	
NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$, and SW. $\frac{1}{4}$ SE. $\frac{1}{4}$	18	143	28	
Lots 3, 4, 5, 6, 7, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, and NE. $\frac{1}{4}$	19	143	28	
All of.....	20	143	28	
All of.....	21	143	28	
All of.....	22	143	28	
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, and W. $\frac{1}{2}$	23	143	28	
NW. $\frac{1}{4}$ NW. $\frac{1}{4}$	24	143	28	
NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, and S. $\frac{1}{2}$ SW. $\frac{1}{4}$	25	143	28	
Lots 1, 2, 3, 4, W. $\frac{1}{2}$ NE. $\frac{1}{4}$, and NW. $\frac{1}{4}$	26	143	28	
Lots 1, 2, 3, and N. $\frac{1}{2}$ NE. $\frac{1}{4}$	27	143	28	
All of.....	30	143	28	
Lot 1.....	35	143	28	
SE. $\frac{1}{4}$ SW. $\frac{1}{4}$	19	143	27	
NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ SE. $\frac{1}{4}$	29	143	27	
SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ NW. $\frac{1}{4}$, and NW. $\frac{1}{4}$ NE. $\frac{1}{4}$	30	143	27	
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, and NW. $\frac{1}{4}$ NE. $\frac{1}{4}$	33	143	27	
Lots 6 and 9.....	5	142	27	
NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, and E. $\frac{1}{2}$ NE. $\frac{1}{4}$	9	142	27	
SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, and S. $\frac{1}{2}$ NW. $\frac{1}{4}$	10	142	27	
SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, and SW. $\frac{1}{4}$	14	142	27	
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, lot 1, and N. $\frac{1}{2}$ SE. $\frac{1}{4}$	15	142	27	
Lots 3, 4, 7, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, and N. $\frac{1}{2}$ SE. $\frac{1}{4}$	21	142	27	
Lots 1, 2, 5, 6, and SW. $\frac{1}{4}$ SW. $\frac{1}{4}$	22	142	27	
NW. $\frac{1}{4}$ NE. $\frac{1}{4}$	23	142	27	
Lots 1, 4, and 6.....	27	142	27	
Lot 2.....	28	142	27	
NW. $\frac{1}{4}$ NE. $\frac{1}{4}$	35	142	27	

West of 5th P. M.

Given under my hand, at the city of Washington, this 28th day of November, A. D. 1881.

CHESTER A. ARTHUR.

By the President:

N. C. MCFARLAND,

Commissioner General Land Office.

Vol. 26, No. 19

1919

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MARY BROGGAN.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STEVENS, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7844.]

The Committee on Pensions, to whom was referred the bill (H. R. 7844) increasing the pension of Mary Broggan, have considered the same and report:

The claimant is the widow of Francis Broggan, late a corporal in the Ordnance Corps United States Army, and who died May 5, 1888, from chronic bronchitis incurred in the line of his duty during his service, which covered the period from November 27, 1869, to March 19, 1887.

Mrs. Broggan was granted a pension in 1888 at \$12 per month with \$2 additional for each of two minor children. Both of these children are now over the age of 16 years, and the increased allowance on their account has ceased. It is alleged, however, that the child, Francis Caroline, whose pensionable minority ended January 25, 1895, is in such a condition of permanent helplessness that the increased allowance on her account should continue under the letter and spirit of the act of June 27, 1890, but the claimant's application for same at the Pension Bureau has been disallowed by the medical referee, notwithstanding the fact that the examiner in charge of the case submitted it for admission.

The testimony on file at the Pension Bureau and additional proof accompanying the bill show that the child in question is under the care of the claimant; that she is a sufferer from chorea or St. Vitus dance, and from paralysis of left leg arising in infancy, and causing such atrophy and weakness of the leg as to necessitate the use of steel rods from the shoe to the knee.

It further appears that the mother of the child (this beneficiary) is about 57 years old, blind in one eye, and dependent almost entirely upon her small pension for the support of herself and helpless daughter.

In addition to the service described above the deceased soldier rendered two terms of honorable volunteer service in the civil war, and then in the infantry arm of the Regular Army from 1866 to 1869.

The passage of the bill is recommended with the following amendments: Change the spelling of claimant's surname to "Broggan;" strike out all after the enacting clause and substitute the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed to increase to the sum of fourteen dollars per month the pension of Mary Broggan, widow of Francis Broggan, late a corporal, Ordnance Corps, United States Army.

ARTICLE

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
CHICAGO, ILL., MAY 1, 1919

ARTICLE

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
CHICAGO, ILL., MAY 1, 1919

The Journal of the American Medical Association is a weekly publication of the American Medical Association, published at Chicago, Ill. It is the official journal of the Association and contains the proceedings of the Association, the reports of the various committees, and the original articles of the members of the Association. It is a valuable source of information for the medical profession and the general public.

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SURGEONS IN THE UNITED STATES ARMY.

APRIL 22, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HULL, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 9638.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 9638) to increase the number of surgeons in the United States Army, hereby report the same back to the House with the recommendation that it do pass without amendment.

The first section of the bill provides for an increase of fifteen assistant surgeons of the rank of first lieutenant. It is the opinion of your committee that the necessities of the service require this, and would require it even were it not for the exigencies which now seem to confront us.

The second section of the bill provides for the employment of contract surgeons, and as contract surgeons are employed only in emergencies your committee believe the provision to be a wise one.

Attached hereto and made a part of this report are letters on this subject transmitted by the Secretary of War.

[House Document No. 354, Fifty-fifth Congress, second session.]

WAR DEPARTMENT,
Washington, March 15, 1898.

SIR: I have the honor to transmit herewith a letter from the Surgeon-General of the Army, with its twelve inclosures, calling attention to the urgent need of an increase of assistant surgeons in the Medical Corps. The Department concurs in the views expressed by General Sternberg.

Very respectfully,

R. A. ALGER, *Secretary of War.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WAR DEPARTMENT,
SURGEON-GENERAL'S OFFICE,
Washington, March 11, 1898.

SIR: I have the honor to request that you will apply to Congress for an increase in the Medical Corps of the Army, which has become absolutely necessary in view of the fact that two additional regiments of artillery have been authorized and that numerous small posts are being garrisoned.

We have at present 4 medical officers on duty with detachments of troops in Alaska; 5 have recently been assigned to duty at posts not previously garrisoned—1 at Fort Washington, Md.; 1 at Sullivan's Island, S. C.; 1 at Fort Mott, N. J.; 1 at Fort Hancock, N. J.; and 1 at Fort Baker, Cal. I understand that additional calls will be made for medical officers when garrisons are sent to other points along the seaboard.

A clause in the Army appropriation bill for the fiscal year ending June 30, 1895, reduced the Medical Corps of the Army by 15. I urgently opposed this reduction at the time, and presented to the Military Committee of the House of Representatives the opinions of the Commanding General of the Army and the commanding generals of all the military departments, to the effect that there was not only no excess of medical officers, but that frequently medical officers were not available to supply the legitimate demands of the service. At the present time several of our military posts garrisoned by a full regiment or more, and which, under the regulations, should have 3 medical officers, have but 2 (Fort Assinniboine, Mont.; Fort Crook, Nebr.; Fort D. A. Russell, Wyo.; Fort Douglas, Utah; Madison Barracks, N. Y.; Fort McPherson, Ga.; Fort Niobrara, Nebr.; Plattsburg Barracks, N. Y.).

The result of this scarcity is that, when a medical officer is granted a leave of absence or is disabled by sickness, it is often difficult to fill his place when he is the only medical officer at the post; and where there are two, but one is left to attend to all the duties of a large garrison, and in case of detached service no one is available to go with the troops. If the corps could be increased by the addition of 25 assistant surgeons with the rank of first lieutenant, we would, I think, be able under ordinary conditions to supply all legitimate demands upon it. It should be remembered that among so large a number there are always some who are unavailable for duty on account of sickness; that justice requires that medical officers should have the same privileges as are granted to other officers as regards leaves of absence, and that vacancies are constantly occurring, so that the number allowed by law is rarely complete. At the present time we have three vacancies, and two medical officers have been ordered before retiring boards.

I inclose herewith copies of communications relating to the reduction of the Medical Corps of the Army which was made in the act of Congress above referred to.

Very respectfully,

GEO. M. STERNBERG,
Surgeon-General United States Army.

The SECRETARY OF WAR.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebr., March 27, 1894.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, in which, referring to the incorporation into the pending appropriation bill of a provision for the gradual reduction of the number of assistant surgeons from 125 to 90, you request me to state certain facts relative to the medical service in this department and pertinent to the question of the expediency of the proposed reduction. In reply I beg to advise you as follows:

The number of medical officers on duty at the several posts in the department is sufficient for the performance of the duties devolving upon them at the present time. It is not, however, more than sufficient, and none could be spared without prejudice to the interests of the public service.

The employment by the visit under army regulation 1637 of private physicians living near military posts requiring medical attendance does not in the long run conduce to the advantage of the service, in my judgment. It has been tried at two of the smaller posts in the department—Fort Sidney, Nebr., and Camp Pilot, Butte, Wyo. In neither case was the result satisfactory except that it effected a slight saving in expense.

The only available physician at the former post was reported as lacking the requisite qualifications for the work; and although there was no objection on the score of incompetency to the civilian doctor who, in the absence of a medical officer, performed the sanitary service at Pilot Butte from August 10, 1893, to March 9, 1894, the management of the hospital, the discipline of the hospital corps detachment, and

the care of the hospital property was not what it ought to have been and would have been had such an officer been on duty at the camp.

The above statement is believed to be a full answer to the specific questions propounded. I would add that as commander of various frontier posts for more than twenty years of my life, I found the proper supply of medical attendance to be among the most serious and troublesome problems with which I had to deal. There is less difficulty in this respect at this time, but even now, as department commander, I find it not always an easy matter to secure the services of medical officers for troops when detached from their posts for duty in the field.

It must be borne in mind that not only the health of the individuals composing a military command, but also its discipline as a body, depends in a large degree upon the medical officer who is assigned to duty with it. A sufficient knowledge of medicine and surgery, though essential, does not complete the requisite professional equipment of the military physician. To be thoroughly efficient as such he must be conversant with the ways and customs of the service, the peculiar characteristics of its personnel, and the requirements of discipline, and an acquaintance with these can be acquired only by actual service with troops for a period of years.

After a careful consideration of the subject I am fully convinced that the Medical Department as now constituted is none too large, and that its reduction would lessen the efficiency of the military service.

Very respectfully, your obedient servant,

JOHN R. BROOKE,
Brigadier-General, Commanding.

The SURGEON-GENERAL UNITED STATES ARMY,
Washington, D. C.

(Through the Adjutant-General.)

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
Washington, March 15, 1894.

GENERAL: I have the honor to request that you will communicate to the military committee of the House of Representatives your opinion with reference to the reduction of the Medical Corps of the Army, which is now under consideration by that committee.

There are at present no more medical officers than are necessary for the performance of the varied duties required of the Medical Corps, and in case of reduction it would be necessary to employ private physicians to take the place of medical officers, or to leave small garrisons without medical attendance. But the bill before the committee proposes to take 61 officers from the list as vacancies occur, and at the same time strikes \$35,000 from the appropriation from which private physicians would have to be paid, although heretofore this appropriation has been barely adequate for the needs of the service. The effect of the bill would be to delay the promotion of assistant surgeons with the rank of captain, who have been eighteen years or more in the service, for at least ten years, and of surgeons with the rank of major, who served through the war and have now been in the service for more than thirty-two years, for from four to eight years.

Very respectfully,

GEO. M. STERNBERG,
Surgeon-General United States Army.

Maj. Gen. JOHN M. SCHOFIELD,
Commanding General, U. S. A.

HEADQUARTERS OF THE ARMY,
Washington, March 15, 1894.

Respectfully submitted to the Secretary of War.

It would, in my judgment, be seriously injurious to the military service to so reduce the officers in the Medical Corps that there would no longer be the necessary number of surgeons for permanent duty at the various military posts. Medical service may doubtless be employed for officers stationed in cities, and, perhaps, in some cases at much less expense than the salaries of a surgeon; yet when it is remembered that

the army surgeons stationed in cities, besides attending officers there, perform the very important duty of examining recruits, it is probable that the service rendered is less expensive, as well as far more efficient, than that which could be hired by the visit. At military posts it is, in my judgment, impracticable to supply the necessary service, including that in the hospitals, in any other way than through the regular commissioned officer.

So far as I am informed the experience of late years shows that the Medical Corps of the Army is none too large for the necessities of the service.

If these views meet with the concurrence of the Secretary of War I respectfully suggest that they be communicated to the committees in Congress having this matter in charge.

J. M. SCHOFIELD,
Major-General Commanding.

HEADQUARTERS DEPARTMENT OF THE EAST,
Governors Island, New York, April 4, 1894.

GENERAL: In reply to your letter of the 19th ultimo I have the honor to state that there are no medical officers on duty in my department whose services can be spared without prejudice to its interests, unless, of course, other officers are sent in their places.

There are at present on the roster of this department 37 medical officers; of these—

One (the medical director) is on detached service in Europe;

One (Major Cleary) is present, sick;

One (Captain Ball, temporarily attached) is absent on leave;

One (Major Comegys) is present, sick, on partial duty, and

Thirty-three are present for duty.

Of this number, 3 (Captains Crampton, Wood, and Shannon) are assigned as attending surgeons and examiners of recruits in Baltimore, Boston, and New York, and the remaining 30 are distributed to the 26 different posts throughout the department as follows, viz:

One post (Washington Barracks), where there is a considerable detachment of the Hospital Corps being trained for service, has 3 medical officers;

Six of the largest posts have 2;

Sixteen posts 1 (the post surgeon, Major Comegys, at Fort Wadsworth, being sick, is temporarily assisted by a civilian practitioner);

Two posts (Fort Wood and Newport Barracks) have none, the sick being cared for by medical officers from neighboring stations; and

One post (Key West Barracks) is under the professional care of a civilian practitioner, fortunately of previous army service.

It is desirable that a medical officer be assigned to duty at Key West Barracks. With this addition the number in the Department will be barely sufficient to perform the very exacting duties of the medical and sanitary service.

I am decidedly of the opinion that the services of a private physician, employed by the visit, can not be substituted for those of a medical officer in any military command without a very considerable sacrifice of the public interests. The duties of a medical officer for the Army requires close attention to a large field of special work hardly at all in the line of civilian practice.

Civilian practitioners might be employed in the cities as attending surgeons and examiners of recruits, but it is doubtful if such could be obtained who would fit themselves for the latter duties if only temporarily employed, and, as the charges of competent civilians are high, it is believed that efficient service could not be had from this source except at greater expense than the cost of the medical officers.

With troops, under the varied conditions of service, a special class of physicians trained in the service is indispensable. The duty of these is to understand, anticipate, and meet conditions wholly out of the line of civilian practice, and without them experience has shown that the troops must endure great additional suffering in actual service. Such a class is not to be found in civil life. It is not the creation of a day, but the result of careful training and experience, and becomes especially valuable to the Government largely through such experience and the knowledge gained in the performance of its duties in the public service.

The necessity for a medical department is recognized in all armies, and since its necessity is admitted it is without dispute important that its efficiency should be maintained at the highest possible level, that it may not be found when the emergency arises in a condition of collapse.

Very respectfully, your obedient servant,

OLIVER O. HOWARD,
Major-General, Commanding.

The SURGEON-GENERAL, UNITED STATES ARMY,
Washington, D. C.

(Through the Adjutant-General of the Army.)

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
OFFICE OF THE DEPARTMENT COMMANDER,
Chicago, Ill., March 27, 1894.

SIR: I have the honor to reply, in answer to questions contained in your communication of the 19th instant, as follows:

First. That none of the medical officers now on duty in my department can be spared without prejudice to the best interests of the service.

Second. That there are no additional medical officers required in this department.

Third. I do not think it would be advisable to depend upon private physicians at any of the military posts in this department; in fact, I think it would be a mistake to adopt such a system. The surgeon should be available at all times, not only to attend to the sick and disabled while in garrison, but be entirely free to move with the command instantly to any part of the country, and go with the troops into battle, where the services of experienced, well-trained surgeons are indispensable to the efficiency of the troops.

Very respectfully, your obedient servant,

NELSON A. MILES,
Major-General Commanding.

The SURGEON-GENERAL UNITED STATES ARMY,
Washington, D. C.

HEADQUARTERS DEPARTMENT OF CALIFORNIA,
San Francisco, Cal., March 30, 1894.

SIR: I have the honor to say in reply to your letter of the 19th instant, as follows:

In reply to your first proposition, whether any of the medical officers now on duty in this department can be spared without prejudice to the interests of the service, and, if so, where the officers whose services can be dispensed with are now stationed: No medical officers now on duty in the Department of California can be spared without prejudice to the service.

To the second proposition: No additional medical officers are absolutely required in this department. An additional medical officer is, however, quite desirable to meet contingencies. The station preferable in such case would be Angel Island.

To the third proposition: The services of civilian physicians living in the vicinity could not, in my opinion, be substituted, with advantage to the Government, for those of a medical officer at any post in this department. The cost for the services of a competent physician, who should devote the time required for all medical service necessary at a post in the Department of California, would exceed the present expense on account of a medical officer.

In this connection attention is invited to the report, by indorsement, of the medical director of the department on the letter returned herewith.

Very respectfully, your obedient servant,

THOS. H. RUGER,
Brigadier-General, Commanding.

The SURGEON-GENERAL, UNITED STATES ARMY,
Washington, D. C.

(Through the Adjutant-General of the Army.)

[Indorsement of medical director.]

HEADQUARTERS DEPARTMENT OF CALIFORNIA,
MEDICAL DIRECTOR'S OFFICE,
San Francisco, Cal., March 29, 1894.

Respectfully returned.

In my opinion there is no post in this military department where the services of a private physician could be substituted for those of a medical officer of the Army without prejudice to the interests of the service. In some cases it would be impracticable, and in all cases it would be more expensive; besides, as the duties of a medical officer are in many respects quite different from those of a private physician, it would be impossible for the latter to do the duties of the former until he had been instructed; and then the sick calls, management of a hospital, care of the sick in and out of hospital, certificates of disability, examination of recruits, requisitions, returns of property, and innumerable other duties would occupy much the greater part of his time, and if he was competent to perform all the duties required of a medical officer and gave the necessary time to those duties the expense to the Government would naturally be greater, because his is a temporary and not a permanent occupation, and this all in time of perfect peace and quiet. In case of a sudden

movement of troops the local practitioner can not leave his local business, and if he could he is unfamiliar with the new duties and responsibilities, and especially of field duty.

A. HARTSUFF,
Deputy Surgeon-General, U. S. A., Medical Director.

HEADQUARTERS DEPARTMENT OF DAKOTA,
St. Paul, Minn., March 28, 1894.

SIR: In reply to your letter of the 19th instant I would state that, in my opinion, none of the medical officers now on duty in my department can be spared without prejudice to the service. In fact, the number is already inadequate, as I think there should be a medical officer at Fort Pembina, where now we have none, and an additional medical officer at Fort Custer.

Since June 30, 1892, no acting assistant surgeons have been employed, and all the work previously performed by them has since then devolved upon the commissioned medical officers of the Army, who, in spite of the fact that the number of military posts has been reduced, have been scarcely equal, numerically, to the requirements of the service.

I know of no post where the services of private physicians, employed by the visit, under paragraph 1637, Army Regulations, can be substituted for those of medical officers of the Army without prejudice to the interests of the service and to the discipline and efficiency of the Hospital Corps.

Of the eleven posts in this department, Fort Pembina is the only one that has a settlement in its immediate vicinity from which it is practicable to get medical attendance. With reference to the other ten posts and one camp, the vicinage of the towns and settlements where there are physicians living varies from about 3 to 35 miles.

Convinced as I am of the correctness of these views, I can not but deplore any legislation having for its object the reduction of the number of medical officers of the Army at this time.

Very respectfully,

P. T. SWAINE,
Colonel Twenty-second Infantry, Commanding.

Brig. Gen. GEO. M. STERNBERG,
Surgeon-General United States Army, Washington, D. C.

HEADQUARTERS DEPARTMENT OF THE COLORADO,
Denver, Colo., March 27, 1894.

GENERAL: Your communication of March 19, 1894, relative to the proviso of army appropriation bill reducing the number of assistant surgeons, as vacancies occur, to 90, is this day received.

I have the honor to reply to your questions in order, as follows:

“(a) Whether any of the medical officers now on duty in your department can be spared without prejudice to the interests of the service, and, if so, where the officers whose services can be dispensed with are now stationed.”

In my opinion, and to the best of my information, no medical officer in this department can be spared without prejudice to the interests of the service. This is one of the largest military departments in the United States; the posts are widely scattered over sparsely settled regions and in many cases at a distance from railroads or towns. The garrisons generally are large, and the officers, troops, and families are entirely dependent upon the post surgeon in sickness, epidemics, and accident.

The constant calls for movements of troops in connection with Indian affairs, troubles upon the Mexican boundary, etc., makes it necessary that at all the larger posts two medical officers should be stationed, that troops so moving may be accompanied by a medical officer, while the garrison remaining may not be deprived of medical help.

“(b) Whether any additional medical officers are required in your department, and if so, at what stations.

In my opinion, the larger posts, as Huachuca, Whipple Barracks, Wingate, Grant, Bayard, Logan, Douglas, and Apache, should always have two medical officers assigned, as is the case at present, and, so far as I can see, no other medical officers are now needed, as in case of need one officer can be temporarily withdrawn from any of these posts for temporary assignment in an emergency, but I am of the opinion that the number should not be further reduced, as great inconvenience may be

experienced in cases of illness among the medical officers, expeditions, or any emergency calling for medical assistance.

“(c) Whether the services of private physicians living in the vicinity of military posts in your department who could be employed by the visit in case of sickness, under Army Regulations, 1637, can be substituted for those of a medical officer of the Army at any post in your department without prejudice to the interests of the service; and if so, at what posts such substitution can be made, and what saving would be effected thereby.”

The military posts of this department, with a few exceptions, are at a distance from villages or towns where physicians are residing, and even in cases where they are near I am strongly of the opinion that neither by education or qualifications are they suited to care for the sick at our military posts, nor would their services be generally acceptable to any of our garrisons. The constant presence of a medical officer is necessary with any body of troops or at any military post. The care of the hospital and its supplies, the instruction and discipline of the hospital corps, the supervision of sanitary and hygienic conditions, require the services of educated and trained medical officers.

It has been necessary at times to secure the services of civilian physicians, but the results have been such as to emphatically prove that their services can not be substituted for the regular medical officers of the Army. Nor can these services be rendered “by the visit” with economy. The rates per visit and mileage are high, and the daily necessities of an ordinary post would make such service very expensive, and entirely unsatisfactory.

The entire medical service of this department is, in my opinion, administered with judgment and fidelity, and I deprecate any change or reductions that may tend to render the service less efficient than it now is.

Very respectfully,

A. McD. McCook,
Brigadier-General, Commanding.

Brig. Gen. GEO. M. STERNBERG,
Surgeon-General U. S. A.
(Through the Adjutant-General of the Army.)

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, Tex., March 30, 1894.

SIR: I have the honor to acknowledge receipt of your letter of March 19, 1894, in which you state that the Military Committee of the House of Representatives has decided to report a proviso in the Army appropriation bill reducing the number of assistant surgeons, as vacancies occur, to 90, the number at present allowed being 125; and in connection with which proposed reduction you propounded the following interrogatories with a view to transmitting my answers thereto to the honorable Secretary of War for the information of Congress.

“(a) Whether any of the medical officers now on duty in your department can be spared without prejudice to the interests of the service; and if so, where the officers whose services can be dispensed with are now stationed.

“(b) Whether any additional medical officers are required in your department; and if so, at what stations.

“(c) Whether the services of private physicians living in the vicinity of military posts in your department who could be employed by the visit in case of sickness, under Army Regulations 1637, can be substituted for those of a medical officer of the Army at any post in your department without prejudice to the interests of the service; and if so, at what posts such substitution can be made, and what saving would be effected thereby.”

In reply I respectfully submit the following:

(a) None of the medical officers now on duty in this department can be spared without manifest prejudice to the interests of the service.

(b) Additional medical officers are not required in the department at present, but in the event of any disturbance on the Rio Grande requiring troops to take the field, as was recently the case, additional medical officers might be required as they were then.

(c) The substitution of private physicians for medical officers of the Army in this department would probably involve expense, and certainly result in diminished efficiency. Their introduction into garrisoned posts is absolutely impracticable. In all other departments of Army administration, substitutes for the regular officers therein

may be found by drawing on the line of the Army, the officers of which are qualified to some extent to perform any duty to which they may be assigned. In the medical department, however, a variety of duties aside from attendance on the sick devolve upon a surgeon that can only be performed by a commissioned officer. Therefore, at least one officer of your department is indispensable in each garrisoned post of the Army, regardless of size.

Assuming that the medical service in other departments is on the same basis as in the Department of Texas, I should regard any reduction of the medical corps as a great misfortune to the Army.

Very respectfully,

FRANK WHEATON,
Brigadier-General Commanding.

The SURGEON-GENERAL UNITED STATES ARMY,
Washington, D. C.

(Through Adjutant-General U. S. A.)

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Vancouver Barracks, Wash., March 29, 1894.

SIR: To the questions submitted in your communication of the 19th instant, to which you request answer, I would respectfully reply as follows:

To the first question, "Whether any of the medical officers now on duty in your department can be spared without prejudice to the interests of the service; and if so, where the officers whose services can be dispensed with are now stationed," I would answer: None can be spared. At the seven posts of the department, 9 medical officers have stations, 1 of whom is now absent on leave. This, when all are present for duty, is 1 medical officer at the smaller posts and 2 at the larger posts of Vancouver Barracks and Sherman. Owing to the absence of 1 medical officer from Fort Sherman, I am now a little embarrassed to secure the attendance of 1 with troops soon to make a march from that post to Fort Spokane.

To the second question, "Whether any additional medical officers are required in your department; and if so, at what stations." I would answer: Yes. One at Fort Walla Walla to meet emergencies; one whose services would be available for the field without depriving a post of all medical aid, and who could temporarily relieve a medical officer if detached, ill, or necessarily absent for any reason, private or official.

To the third question, "Whether the services of private physicians living in the vicinity of military posts in your department who could be employed by the visit in case of sickness under Army Regulations 1637, can be substituted for those of a medical officer of the Army at any post in your department without prejudice to the interests of the service; and if so, at what posts such substitution can be made, and what saving would be effected thereby." I would answer: No; not in any instance; and even if circumstances permitted such substitution, the constant demands which would be made for professional medical services would not result in any pecuniary saving to the Government.

Very respectfully, your obedient servant,

E. S. OTIS,
Brigadier-General Commanding.

The SURGEON-GENERAL UNITED STATES ARMY,
Washington, D. C.

(Through the Adjutant-General of the Army.)

[Telegram.]

VANCOUVER BARRACKS, WASH., *April 30, 1894.*

ADJUTANT-GENERAL UNITED STATES ARMY,
Washington, D. C.:

Need a medical officer at once at Fort Spokane to replace Surgeon Hubbard, who is ill and has applied for sick leave. None available in this department. Desire another medical officer to attend troop if called out to meet prospective emergencies, and request that he be sent if practicable.

OTIS, *Commanding.*

[Extract from Inspection Report by Col. R. P. Hughes, Inspector-General United States Army, Davids Island, N. Y., August 12, 1893.]

The steward informs me that he is called upon quite frequently for first-aid services in cases of accident in the gun factory. I believe that the Government should keep a medical man at all these great establishments where accidents of a serious character are apt to happen to some of her employees. There is a vacant set of quarters here that would accommodate an assistant surgeon very comfortably if there is one available for the place.

[Extract from Inspection Report by Col. R. P. Hughes, Inspector-General United States Army, Davids Island, N. Y., August 12, 1893.]

I find the two medical officers are not enough for the amount of work demanded. A third medical officer is very desirable.

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THE SANTA FE AND GRAND CANYON RAILROAD
COMPANY.

APRIL 22, 1898.—Committed to the Committee of the Whole House on the state of the
Union and ordered to be printed.

Mr. SMITH, of Arizona, from the Committee on the Public Lands,
submitted the following

REPORT.

[To accompany H. R. 9956.]

The Committee on the Public Lands, to whom was referred House bill 9956, beg to report that they have had the same under consideration and have approved the same and recommend its passage.

The bill provides for the granting of a right of way to the Santa Fe and Grand Canyon Railroad Company, an Arizona corporation, over a portion of what is known as the Grand Canyon Forest Reserve in Coconino County, in northern Arizona. The road in question will be in the neighborhood of 65 miles in length and will be constructed for the purpose of reaching the recently developed copper fields in that region. The actual condition of the country through which the projected road will pass in no way warrants its reservation for forest purposes. The small amount of valuable timber in the reservation as now outlined is north of the Grand Canyon, while this right of way is south.

That portion of the reservation through which the proposed right of way will pass has no merchantable timber and the most of the land on the route is covered with sage brush. The mineral resources of the district are however of great richness, but at this time inaccessible and unprofitable, owing to the absence of means of transportation.

The sundry civil appropriation bill of 1897 threw open the various forest reserves for mining purposes and the general policy of the Government has been and is not to restrict, but to develop such industries.

This bill puts the granted right of way under all the restrictions attaching to the building of railroads over the public domain under the general act of 1875, and adds an additional proviso prohibiting the cutting of timber outside of the right of way; and the right of way hereby granted is not assignable, but inures solely to the use of this grantee.

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MRS. C. P. CULVER.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RIXEY, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 796.]

The Committee on Claims, to whom was referred the consideration of the claim of Mrs. C. P. Culver, having under consideration the bill (H. R. 796) for her relief, with the accompanying papers, respectfully report the same to the House, and adopt the first report made by the Committee on Claims of the Forty-seventh Congress, second session, but recommend that the bill be amended by inserting \$504 in the place of \$850, and as amended be reported to the House with a favorable recommendation.

The services were rendered in 1882, and a favorable report for \$840 was made in 1883, and since then the claim has been repeatedly before the several committees of the two Houses and been reported favorably. The letter of Hon. A. H. Stephens, the chairman of the Committee on Coinage, Weights, and Measures, is herewith inserted, and shows the circumstances under which the liability of the Government was contracted.

WASHINGTON, D. C., *July 3, 1882.*

MY DEAR SIR: In the matter of the claim of Mrs. Culver, before your committee, I think it proper that I should say to you, and through you to the members of your committee, that I think the claim is just and ought to be paid. It is for services rendered at the request of the Committee on Coinage, Weights, and Measures in translating a small German book upon money. This work in German was sent to me by an eminent gentleman from Cincinnati. It was sent to me as chairman of the Committee on Coinage, Weights, and Measures and represented as containing important matter for the consideration of our committee at that time. The remonetization of silver was then one of the most important questions before the committee as well as the House and Senate. The other pressing question was the international monetary congress to be called at Paris. As the work referred to was a new one and by an eminent European writer, the committee were anxious to have an English translation of it.

Mrs. Culver was known to me to be an accomplished German scholar, and at my suggestion the committee agreed that I should request her to undertake the work. As to the matter of pay for her services there was nothing definitely settled. Some of the officers of the House informed me that when the committee needed any extra work, such as could be done by reporters or draftsmen or translators, it was usual for them to call for the assistance required, and when the work was done and

certified to by the chairman, and upon reasonable rates, it was submitted to the Committee of Accounts, who would allow, if they deemed the labor proper and the rates charged just and reasonable, as in matters of stationery and other like accounts presented by committees. After Mrs. Culver performed this work it was carefully examined by Dr. Harrison, one of the most eminent scholars of the country, who commended the translation highly. The charge of the work per page was also submitted to experts, and the rates were by them said to be moderate. Mrs. Culver's account was therefore audited and certified to by me, and handed over to the Committee on Accounts. I supposed, as a matter of course, it would be paid. The work done by her was of great value. The House so considered it at the time. When I reported the work of the committee embracing this translation, it was ordered to be printed, and 1,800 copies were issued under the order, but such was the demand for this translation that the issue was soon exhausted.

Now, sir, this embraces a general statement of the facts, which may be summed up thus:

First, the work was done without any direct authority from the House, but according to precedent and custom.

Second, it is a very valuable work, and performed at very moderate rates.

Third. The House received the work, and sanctioned their appreciation of it by having 1,800 copies printed for public information.

Fourth. It is, therefore, but right and just, it seems to me, that Mrs. Culver should be paid for it.

This statement you may read to the committee if you think proper.

The Committee on Coinage, Weights, and Measures never would have authorized me to request Mrs. Culver to do this work if they had not thought she would be paid for it, nor would I have asked her to do it if I had not thought she would receive reasonable pay for it.

ALEXANDER H. STEPHENS.

Hon. HENRY G. TURNER,
House of Representatives.

The bill for \$840, based upon a compensation of \$5 per page for the translation, is supported by all the evidence which is filed in support of the bill. It is thought by the committee, however, that the work could have been performed for less money, and it was for that reason that the bill was amended by striking out \$840 and inserting \$504, and as so amended is reported with a favorable recommendation.

[House Report No. 1876, Forty-seventh Congress, second session.]

The Committee on Claims, to whom was referred the memorial of Mrs. C. P. Culver, have had the same under consideration, and report the same to the House with the accompanying bill for her relief.

It appears from the papers presented with the memorial that the claimant was employed during the Forty-fifth Congress by Hon. Alexander H. Stephens, chairman of the Committee on Coinage, Weights, and Measures, by direction of that committee, to translate, for the use of the committee, a German work of which the title in English is "Money; a study in national economy." The translation seems to have been submitted to the House December 18, 1878, and recommitted to the Committee on Coinage, Weights, and Measures, and ordered to be printed. It is H. Mis. Doc. No. 8, Forty-fifth Congress, third session.

The claimant presented her account for making the translation to the Committee on Accounts of the Forty-fifth Congress, and that committee declined to allow the account because the service had not been authorized by the House. The translation covers about 160 pages of the pamphlet, and the charge for it is at the rate of \$5 per page. This is about the usual charge for such work.

Although the translation was not originally authorized by the House, the Committee on Claims are of opinion that the order of the House directing the translation to be printed as one of its documents was in substance a ratification of the employment of Mrs. Culver under the circumstances before stated, and an acceptance of the results of her labor. The committee therefore recommend the passage of the accompanying bill.

GEORGE W. GRAHAM.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. YOST, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 5680.]

The Committee on Claims, to whom was referred the bill (H. R. 5680) for the relief of George W. Graham, have had the same under consideration and report as follows:

An act entitled "An act authorizing the Solicitor of the Treasury, by and with the consent of the Secretary of War, to cancel certain contracts for the sale of lots of land made in Harpers Ferry in the year 1869 by the United States, to resell the same, and sell or lease all other real estate and riparian rights now owned by the United States at Harpers Ferry, W. Va.," was approved June 14, 1878. (See 20 U. S. Stats., ch. 192, p. 130.) On assuming control of the property, much of which was movable, it became necessary for the Solicitor of the Treasury to place some one in charge of it, and as the act directed the sale of the property, or to lease it, which would involve a large amount of legal work, the Hon. Kenneth Raynor, then Solicitor of the Treasury, on the 2d day of July, 1878, appointed Mr. George W. Graham, a resident attorney of Harpers Ferry, custodian of the property. His commission reads as follows, to wit:

DEPARTMENT OF JUSTICE,
OFFICE OF SOLICITOR OF TREASURY,
Washington, D. C., July 2, 1878.

SIR: You are hereby authorized and requested to act as local agent of the Solicitor of the Treasury to assist under his directions in the execution of the act of Congress approved June 14, 1878, in relation to the Government property at Harpers Ferry. You will further exercise, until otherwise ordered, a general supervision and control over such parts of the property as are now in the possession of the Government, and take all necessary steps to stop and prevent depredations on the same. Your compensation will be hereafter fixed by the Solicitor of the Treasury.

Very respectfully,

KENNETH RAYNOR, *Solicitor of the Treasury.*

GEORGE W. GRAHAM, Esq.,
Harpers Ferry, W. Va.

Mr. Graham took charge of the property and the Harpers Ferry branch of the settlement July 2, 1878, and remained in control of the

property in its entirety at first, and later the unsold residue, until November 30, 1880, or two years four months and twenty-nine days. The fact that the Solicitor of the Treasury trusted Mr. Graham in all matters is shown by his letters filed in this case and an approved account for pay for about eighteen months of the time named above. The property consisted of 1,400 acres of woodland, 222 lots, many with houses on, cut stone, castings, locks of canal and feeder, and head gates.

The movable property and timber from the woodlands were liable to be depredated on at all times, and in fact were being stolen or destroyed. Mr. Graham paid for locks and repairs \$28.40, and files vouchers and sworn account therefor. He expended in traveling to and from Washington, at request of the Solicitor of the United States Treasury, \$156.80. He drew 52 quitclaim deeds, 102 requests, 5 fee-simple deeds, and necessarily wrote a large number of letters, which took a great part of his time in the early stages of his official work as local agent.

It does not appear that there were any funds out of which he could be reimbursed for money he expended or paid for his services rendered, as no provision was made for the payment of any funds for any purpose whatever in the act approved June 14, 1878, as aforesaid. The Solicitor of the Treasury, under date of July 13, 1882, certifies that said George W. Graham was appointed by him as aforesaid and should be paid \$20 per month for eighteen months, commencing July 2, 1878, \$360, and also paid for postage and expenses for preservation of property, etc., \$124.10; total, \$484.10. This amount—\$484.10—the Solicitor recommends should be paid Mr. Graham. While Mr. Graham appears to have done a work for the Government which required legal knowledge and skill, and which occupied a large portion of his time for from eighteen months to two years and nearly five months, and his claim as itemized, filed, and proven does not appear to be exorbitant, yet the Solicitor of the Treasury reserved the right in his commission to Mr. Graham to fix the compensation that should be paid for the services rendered the Government by said Graham as local agent.

It further appears that Mr. Graham has tried, year after year, through the Congress of the United States to secure a settlement of his claim. He is clearly entitled to pay for his services, and your committee recommend that the sum fixed by the Solicitor be paid him, viz, \$484.10, by the Secretary of the Treasury, in full compensation for the services rendered as aforesaid.

The committee therefore recommend that the bill be amended by striking out in lines 6 and 7 the words "two thousand four hundred and seventy-eight dollars and fifty-three cents" and inserting the words "four hundred and eighty-four dollars and ten cents," and that so amended the bill pass.

LEGAL REPRESENTATIVES OF GEORGE McDOUGALL.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BRUMM, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 1711.]

The Committee on Claims, to whom was referred the bill (S. 1711) for the relief of legal representatives of George McDougall, deceased, submit the following report:

This bill is the same as H. R. 4825, now pending in the House, and previously reported by this committee with a favorable recommendation.

Your committee therefore recommend that this bill be substituted for said House bill, and that said House bill lie on the table.

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ROBERT D. BENEDICT.

APRIL 22, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLIVAN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 2077.]

The Committee on Claims, to whom was referred the bill (H. R. 2077) for relief of Robert D. Benedict, having given the same careful consideration, beg leave to submit the following report:

It appears that the Treasury Department desired rooms in the city of New York which were occupied by the United States district clerk, and which rooms were necessary for the proper discharge of the duties of the officers of the court. A suit was brought to prevent the custodian of the building from removing the clerk, with the records, from the rooms. In the controversy that was thus inaugurated the district attorney represented the Treasury Department. This necessitated the employment of counsel to represent the court.

The result of the litigation was that the proposed removal of the clerk and his records was defeated. Mr. Robert D. Benedict, attorney, was employed by the clerk, with the approval of the Federal judge. The services were proper, ought to have been rendered, and the compensation therefor should be paid, not by the clerk, as he was not individually interested in the result, but simply as an official. The compensation should be paid by the Government. He propounded first a claim for \$250 fee and later increased the amount to \$500.

The committee are satisfied that he should be paid and that \$250 is a reasonable sum, yet small enough, and recommend its payment, and report favorably the bill with amendment, striking out in line 5 the words "five hundred" and inserting in lieu thereof the words "two hundred and fifty."

NATIONAL EXPOSITION OF AMERICAN PRODUCTS AND
MANUFACTURES.

APRIL 23, 1898.—Committed to the Committee of the Whole House on the state of the
Union and ordered to be printed.

Mr. WANGER, from the Committee on Interstate and Foreign Commerce,
submitted the following

REPORT.

[To accompany H. R. 8066.]

The Committee on Interstate and Foreign Commerce, having carefully considered the bill (H. R. 8066) to authorize and encourage the holding of a National Exposition of American Products and Manufactures, especially suited for export, at Philadelphia, Pa., in the year 1899, report it to the House with a recommendation that it do pass.

Briefly stated, the bill provides for the holding of a national exposition, as stated in its title, under the auspices of the Philadelphia Exposition Association; for the admission to such exposition of such articles not of American manufacture and such other objects as may conduce to the interest of the exposition and be useful for comparison with American products and manufactures; for the importation free of duty, under regulations to be prescribed by the Secretary of the Treasury, of the articles imported for exposition; for the sale of such articles on payment of the duties imposed thereon by the general revenue laws in force at the date of importation; for the appropriation of \$50,000 out of the Treasury of the United States for enabling the collection in foreign markets of samples of merchandise in favor and demand therein, and illustrating the manner in which merchandise for such markets should be prepared and packed, together with necessary data for the instruction and benefit of American manufacturers and merchants, and thereby laying the foundation of a great system of national commercial education; for an appropriation of \$300,000 to aid in providing buildings necessary for the purposes of the exposition, and for the purpose of collecting, installing, and caring for such an exhibit by the United States Government as may be found expedient and desirable.

The desirability of encouraging American industries—expanding the present and obtaining and developing new markets for the same—may be regarded as self-evident, and it is believed that opportunities therefor now exist and for years have existed and may be secured by a dissemination throughout the United States of valuable information touching the conditions thereof. The necessity for an available center of informa-

2 EXPOSITION OF AMERICAN PRODUCTS AND MANUFACTURES.

tion has long been recognized by leading producers and exporters, and many efforts have been made to establish the same, but not being properly organized or encouraged proved ephemeral until about 1893, when a number of the leading citizens of Philadelphia concluded upon organizing an institution for the purpose, and of their own means and through the cooperation of the corporate authorities of the city of Philadelphia, Pa., commenced the work and secured the immense collection of the varied products of the world illustrative of the commerce of the United States with foreign countries which had been exhibited at the World's Columbian Exposition. Extensive exhibits were also secured from Africa, Australia, Japan, and India, and there was transported to Philadelphia the largest and most comprehensive permanent collection of raw products in existence, which have since been constantly increased through the work of special commissions and agents.

In June, 1894, the city councils of Philadelphia passed an ordinance creating a board of trustees to direct the above-named institution, which was entitled The Philadelphia Museums, and from time to time appropriations were made for maintenance and equipment amounting to \$570,000.

In 1895 the vacated offices of the Pennsylvania Railroad Company at 233 South Fourth street, Philadelphia, containing over one hundred spacious rooms, were leased on nominal terms for a period of five years, and the exhibits of the museums were there installed and opened to the public.

A bureau of commercial information was established as a necessary incident to the work of the institution, to gather and compile all possible data relating to foreign commerce and furnish the same to those requesting it, whether members of the institution or casual inquirers. This secured the most comprehensive information to contemplating exporters ever available, as it comprehended all the consular reports of this and of all other countries in print, besides reports from chambers of commerce in South America, Africa, and other neutral markets, as well as special reports by agents sent to neutral markets to gather information.

This institution naturally appealed to the manufacturers and merchants of the country, and 128 chambers of commerce and boards of trade of the leading cities of the United States united themselves into the advisory board of the museums, which is composed of official delegates, appointed either directly by the various Governments or by the representatives of commercial bodies of the United States, Mexico, Brazil, Argentina, Uruguay, Chile, Venezuela, Peru, Colombia, Panama, Costa Rica, Salvador, and British Guiana. This advisory board exercises a general supervision over the administration of the museum and meets annually.

To more efficiently effect the purposes of the institution it was deemed desirable to have a diplomatic advisory board, and the envoys extraordinary and other official representatives of Central and South American countries became members thereof and have rendered great aid to the promotion of commerce and closer commercial relations between the United States and the countries they represent.

The museum exhibits and its store of information are available daily to the public without charge. To provide a maintenance fund for acquiring and supplying information a membership charge of \$50 annually is made to each individual or firm desiring membership, which entitles them to all the information regularly supplied concerning their special interests which the institution has or is able to collect.

In June, 1897, was brought together the first meeting of the national advisory board, which consists of the delegates from the United States, 320 in number, and the delegates appointed by chambers of commerce of Spanish-America, 66 in number.

The proceedings at this gathering were opened by the President of the United States as presiding officer. The deliberations of this body lasted five days, after which they were received as the guests of the principal chambers of commerce throughout the country during the ensuing six weeks. The work of the museum was thus brought to the attention of the commercial public, and its importance more generally realized than before. The discovery of the opportunities for profitable purchase in American markets of goods for their trade was made by many foreign buyers who attended the conference, and orders for many million dollars' worth of such goods were placed.

The necessity had been felt for the holding of a national exposition of goods intended for export trade, with the kinds of goods adapted to neutral markets abroad, and the suggestions made and experience had during the journeyings of the members of this international conference, and of the foreign buyers attending the same, emphasized this need.

Accordingly a corporation was created under the laws of Pennsylvania entitled "The Philadelphia Exposition Association" for the "purpose of educating the public by holding, conducting, maintaining and managing one or more expositions or exhibitions of artistic, mining, mechanical, agricultural or horticultural products and manufactures of the United States and foreign countries, and of the machinery and processes of such manufactures, and of making awards and granting diplomas or medals for exhibits of merit."

The practical purpose of this corporation is to conduct the exposition or expositions to be given by the Philadelphia Museums, and all profit or proceeds of the business of the corporation are provided by its charter to be paid over to the Philadelphia Museums after the repayment of the subscriptions to the capital stock of the Philadelphia Exposition Association, with interest.

The city of Philadelphia has assigned for the site of the permanent buildings of the Philadelphia Museums, which the larger appropriation provided for by the bill is to aid in erecting, a valuable tract of land of several acres and greater value than said appropriation, within a few minutes' ride of the City Hall and of all the railway terminal stations in said city.

The appropriation for building purposes is conditioned upon at least an equal amount being first secured from contributions, donations, subscriptions, and appropriations from other sources than the Federal Treasury, and an appropriation of \$200,000 for the purpose by the city of Philadelphia has been authorized by a popular vote of its citizens. The State of Pennsylvania has already appropriated \$50,000 for the purpose, notwithstanding that its finances were in such condition at the last session of its legislature that appropriations for public purposes were scaled to the minimum, and it is only a just expectation that the State will make a further and larger appropriation at the next session of its legislature. There is no good reason why other States and cities than Pennsylvania and Philadelphia should not contribute to the object, except that the attention of their corporate authorities has not been called to the matter, and no request has been made to them for such appropriations. The opportunity to be served by the museums, in the inspection of its exhibits and receipt of its store of information, is as great to all persons as to any resident of Philadelphia.

4 EXPOSITION OF AMERICAN PRODUCTS AND MANUFACTURES.

It is well known that the governments of other commercial nations, including Great Britain, Russia, Germany, France, Belgium, Austria-Hungary, and Italy have dispatched commissioners to the Orient, Australasia, Africa, and Spanish-America to investigate the conditions of trade and gather samples of natural products and of manufactured products most favored in each market and to make the same available to the manufacturing and commercial interests of their respective countries. This work has been supplemented and their trade has been promoted by establishing and maintaining out of the public treasury institutions of like nature to the Philadelphia Museums. The Imperial Institute of London is such an institution, installed in a most imposing building erected at a cost of probably more than \$2,000,000. The Brussels Museum is another, and it is believed that the work of the consular agents of Belgium incidental therewith exceeds all their other work. There are several of these institutions in Germany, the principal one probably being the Export-Musterlager and Commercial Museums, Stuttgart. The work of the institutions in France is understood to be conducted by its chambers of commerce, but there are like commercial institutions at St. Petersburg, Russia; Vienna, Austria; Budapest, Hungary; and Milan, Italy. It is believed that the exhibits at none of these institutions is as valuable and varied and the store of information as comprehensive and great as at the Philadelphia Museums.

The Philadelphia Museums have worked with the cooperation of the State Department, each of whose Secretaries, beginning with and succeeding Mr. Gresham, has directed the consular officers of the United States to assist them in every possible way, and has made available the consular reports.

It is not the purpose of the committee nor its function to herein express an opinion touching the need of a department of manufactures and commerce, but there are methods for obtaining cooperation abroad whereby a public institution like the Philadelphia Museums can better aid in the extension of our foreign trade than is possible under Government officials. Representatives of the museums can communicate with officials of foreign governments, trade organizations, and foreign dealers and more freely receive from them commercial information than could be obtained through official representatives of the Government. Again, when an official congress is held, delegates are limited by instructions, and decline to commit their government, being generally forbidden to do so; whereas an international conference of representatives of commercial houses and boards of trade are free to speak and act, and do so unhesitatingly. Besides, with the American advisory board, the action of the museums is directly responsive to and in accordance with the judgment and demands of those interested in agriculture, manufactures, and commerce; whereas a governmental department would be directed by its head and its work so limited, necessarily, by official regulations that it could not be so immediately responsive to the needs and suggestions of the public.

To instance the recognition of the standing of the Philadelphia Museums abroad, China has recently, for the first time, consented to a visit from a commission created by it, and guaranteed every facility for acquiring information throughout its Empire.

Your committee visited the Philadelphia Museums, and were amazed and delighted at the extent and variety of its exhibits and the store and systematic arrangement of its information gathered as stated, and from the 1,500 trade journals of the world which it regularly receives and classifies.

The principal needs of the proposed exposition may be summarized:

To bring together samples of the raw products of the world, in order that consumers in the United States may know where and under what conditions they can most cheaply and advantageously secure any commodity entering into their particular manufacturing industry.

To display samples of the European merchandise having a sale in foreign markets, so that manufacturers may accurately learn the competition to be met in foreign markets in their particular products.

To display products of American farmers and manufacturers, so that foreign buyers may discover where and from whom advantageous purchases may be made.

In a recent year Brazil imported \$1,000,000 worth of cotton goods from America and \$11,000,000 worth of like goods from England, when over 60 per cent of the latter could have been successfully competed for by American manufacturers if they had known of the conditions of the Brazilian markets.

The failure to enter upon such competition is chiefly attributable to lack of information as to the kind of goods salable in the particular foreign market, the tariff and trade regulations governing the importation of goods, the volume of trade, the names of dealers and importers, and the standing of commercial houses handling the goods, all of which information and other valuable data is obtainable from the Philadelphia Commercial Museums.

The history of the Philadelphia Museums and greatness of its work is more particularly detailed in the statement of Dr. William Pepper, the president of its board of trustees (Exhibit A), and the appreciation of the work of the museums and the importance of encouraging the exposition is shown by the statement of Mr. W. C. Barker, of New York (Exhibit B), and of Mr. H. C. Staver, of Chicago (Exhibit C), herewith appended.

Further details are set forth in Senate Report No. 779, on Senate bill 4080, which is identical in terms with the bill under consideration, and which, having been passed by the Senate, we trust will be substituted for this bill.

Many commercial bodies have petitioned Congress for the passage of the measure, and several Representatives in Congress appeared before the committee to recommend governmental recognition of the exposition and to express the interest which the manufacturers and commercial bodies of their respective districts feel in its success.

The bill seems to be so drawn as to safeguard the public Treasury from all expense beyond the appropriation provided for, and from loss of revenue on articles entered for exhibit and which may be subsequently sold; and its passage is called for to give to the exposition the standing in foreign countries whose markets it is desirable to enter which can alone secure their cordial cooperation, and is warranted by numerous precedents of appropriations to expositions of temporary nature and not so entirely confined to commercial purposes.

EXHIBIT A.

Dr. William Pepper, President of the Board of Trustees of the Philadelphia Museums, said he would speak very briefly, as his desire was merely to introduce the subject under discussion and then present several gentlemen who had come from a distance to bear testimony to the great importance of the exposition in behalf of which the bill to authorize and encourage the holding of a national exposition of

6 EXPOSITION OF AMERICAN PRODUCTS AND MANUFACTURES.

American manufactured goods, suitable for export, in the city of Philadelphia in 1899 was introduced:—

A few words must be said about the Philadelphia Commercial Museum. The institution has been, from the start, truly and wholly a public, municipal, and national organization. It began with the acquisition of extensive and valuable collections of natural products at the Chicago Exposition. Upon application being made to the ministers of all the countries exhibiting in Chicago, and the faith of the city of Philadelphia being pledged for the permanent care and custody of the collections if presented to her, orders were sent to the commissioners at Chicago to turn over the vast quantities of natural products from many countries to the city of Philadelphia, which were later placed there on exhibition. There has never been the least private or business or proprietary interest or feature about the work.

In order to display the products properly it was necessary to secure extensive buildings, pending the construction of the permanent buildings of the museum. The directors of the Pennsylvania Railroad granted the occupancy of their Fourth street offices on most generous terms. These buildings contain about 80 large chambers. Many of the members of the committee have visited the museums and can confirm what I say that every room is crowded to the utmost; that every hall and corridor is lined with exhibits, and, in addition, there are hundreds of great cases of valuable products awaiting proper installation and display. Nowhere in the world is there so complete an exhibit of the natural products of all countries as is there found. These products are arranged for the special use of manufacturers and merchants. Not only every week, but every day, the representatives of the great business firms all over the country visit these collections and study them to obtain practical information to guide their business operations. Then, besides the collections of natural products, there is another series, showing samples of nearly all the goods that are manufactured abroad, in England and Germany and France and Belgium, for export to Africa and South America and China and the other great neutral markets into which the American manufacturer is anxious to extend his trade. This series shows the exact articles made, with data as to how much it cost to produce them, how much it costs to transport them to the country for which they are intended, what import duties there are, what is the price at which they can be sold, what is the extent of trade in each article, what is the amount of population likely to use such articles, and other important information, so that our business men have every fact before them to enable them to decide whether they can enter into competition profitably with such goods.

Then, to bring all this still more closely and directly to the manufacturer, there is a bureau of information, which is supported by the annual subscriptions of those firms that desire to take advantage of its privileges. Between twelve and thirteen hundred trade journals are received regularly, printed in all languages; also all the consular reports of the United States and foreign governments, as well as all the statistical publications bearing on commerce issued by these governments. There is a large corps of trained clerks, who speak these languages fluently, engaged constantly in translating and reducing to compact form for trade bulletins the facts and information contained in these publications. This information is supplemented by a most extensive correspondence with over 35,000 foreign buyers, located in most all parts of the world.

From the beginning of this work the State Department recognized what valuable assistance the commercial museum could render to the entire consular service of the country, and in turn how much help the consular service could render to our business men through the museums. So that beginning with Secretary Gresham's administration down to the present time, the work of the commercial museum has been recognized as clearly a national work, and our consuls have been requested to render all assistance in their power. In fact, the official relationship existing between the Philadelphia Commercial Museum and the State Department is so close, and the mutual advantage of this association and cooperation so great, that the connection now amounts to practical Governmental supervision of the work which the museums perform.

The commercial museum sends out special commissioners to all neutral markets of the world, and they get full reports, which can not be had from any other source.

Now, it is because our practical manufacturers have experienced the benefits of this work that they are supporting it so strongly. It is the settled policy of the authorities of the museum not to apply to the Congress for a single dollar of aid in maintaining the work. If the work is well done and of real value to the manufacturers they will surely support it. The whole management of the commercial museum is based on this broad national idea.

Chambers of commerce, boards of trade, and commercial organizations of this country are in official relation with the institution, and every chamber of commerce appoints two of its leading members as its representatives on the governing board of the museums. This board meets annually in Philadelphia, elects the officers,

appoints the executive committee, lays down the policy for the ensuing year, and intrusts the carrying out of this policy to the local board of trustees in conjunction with the officers of the governing board.

Not only the commercial organizations of the United States are thus represented in the work of the commercial museum, but nearly all the chambers of commerce of this continent hold official relations with this institution. The work began by international cooperation; its full success requires cordial international cooperation, and this can be secured only by our receiving cordial national recognition.

In addition to the governing board of the museums, there is the diplomatic advisory board, composed of the Ministers representing at Washington the countries which offer to our manufacturers the great new markets of the world. This board meets regularly and the authorities of the museums report fully to them upon the condition and prospects and needs of the work.

The expense of this great work has been defrayed in the first place by the city of Philadelphia, which with the greatest liberality has assigned a valuable tract of land, 16 acres in extent, within a few minutes' ride by street car from the City Hall, as a site for the permanent buildings; and it has also appropriated for the maintenance of the museums, in successive years, so that the total exceeds \$350,000, and at the present time there is pending before the city councils a further appropriation of \$200,000 toward the permanent buildings. All this has been done, although it is clearly recognized that the manufacturers of every part of the country have just as free access to all the advantages of the institution as those in Philadelphia. So, too, the State of Pennsylvania has put her feet firmly in the path of supporting this great work. At the last session of the legislature it was found that the State finances were restricted, and that the demands were unusually heavy, so appropriations had to be cut down. But the State did appropriate \$50,000 toward the permanent buildings of the commercial museum, and it is distinctly understood that at subsequent sessions of the legislature further and more liberal appropriations will be made.

We have been urged time and time again to apply to the legislatures of other States for appropriations, just as we have been urged to come to the Congress for annual appropriations to help in the maintenance of the work; but for reasons which you will appreciate it has been deemed better to resist these temptations.

The support given by individual firms throughout the country is steadily increasing, and in a few years, if the institution is properly encouraged and supported, it will become largely self-sustaining.

I come now to the reason which has made it imperatively necessary to apply to the Congress for the amounts named in the bill, which is in the hands of your honorable committee. Every year when the board of the museums meets and brings together several hundred of the leading manufacturers and commercial men of the country, there are also in attendance delegates from other countries. Last June the President of the United States honored the meeting with his presence. After the meeting in Philadelphia the Spanish-American delegates were taken in special trains to a number of the principal cities of the country. The results were remarkable; many important commercial relations were established and actual orders were placed amounting to many millions of dollars.

These foreign delegates then urged that if the best results were to be obtained in the future in these meetings it must be by the establishment at a convenient point of a complete exposition of American goods suitable for export, so that our business men would come together and meet the foreign delegates representing the great buyers of other countries with the actual samples of American manufactured goods before them, and with the immense collections of the natural products of all countries, arranged conveniently, so that close study of trade conditions could be made, which would certainly result in immense stimulation of foreign commerce. This proposition is meeting with unanimous support from the business men in the country. I have no doubt that the members of this committee have heard from their constituents on the subject. We have received very many thousands of communications urging us to carry out the work.

Not only have individual firms written, but at least 40 leading commercial organizations of the country, representing more than 20 States, have passed strong resolutions, copies of which I hold in my hand, although I will not occupy your time by reading them.

Now, it is clear that such an exposition can not be carried out without national recognition and support. Mr. William Harper, the chief of the bureau of information, who is present to-day, has just returned from a visit to Africa, Australia, and China in the interest of this work. In each of these countries the deepest interest is felt, and there have already been appointed leading representatives of their great business communities to come as delegates to the exposition in 1899.

I have tried to show you that the city of Philadelphia and the State of Pennsylvania have done certainly more than their share in this great national work. I

have shown you how earnestly our commercial organizations and individual firms are exerting themselves. I have tried to make it clear that the work is absolutely a national one and divested of any character of self-seeking interest or business design.

The question has been raised as to the precedents for such appropriations. It is known to this committee that appropriations have been made in various instances to expositions which were of a temporary character, not devoted especially to practical business purposes. In this case the bill is safeguarded by the condition that \$50,000 shall be expended to complete the exhibits of manufactured goods made abroad, for sale in the neutral markets which our manufacturers desire to enter, while every dollar of the remaining \$300,000 must be covered by an equal amount secured from other sources, and the appropriation must be expended simply and solely in the construction of permanent buildings. For this exposition is not to be a temporary one. This is the beginning of a great, continuing practical work where, year after year, our manufacturers will have the opportunity of seeing a complete exhibit of American goods made for export, and of meeting at this exposition the representative buyers and commercial delegates of other countries, so as to enjoy the best possible opportunities for extending their foreign commercial relations.

The intense personal interest I feel in this work is owing to its scientific and educational character. Its growth has been far more rapid than could have been expected. Nothing can explain it except the fact that its importance answers a great and clearly recognized need of our business communities. As I have watched its growth it has been forced in upon my mind from hundreds of sources that our manufacturers and business men feel this is the solution of the great difficulties of our commercial condition; that it is the key which will alone enable them to open the avenues of trade which will relieve the stringent conditions of overproduction that threaten us.

In response to questions from members of the committee, Dr. Pepper stated that the exposition buildings, with their collections, will be open freely to all visitors, from whatsoever sections of the country they may come. No charge for admission is to be made. The collections are to be open for inspection every day in the year, except Sundays and legal holidays, from 9 a. m. until 5 p. m.

The advantages of the bureau of information of the Philadelphia museums are available without restriction to every individual or firm that pays the small annual sum of \$50.

It should be clearly understood that the exposition is not to be a money-making enterprise. In addition to the amounts that will be received from the State of Pennsylvania and the city of Philadelphia, and, it is hoped, from the National Government, there will be large subscriptions to the stock of the exposition association. Mr. P. A. B. Widener is president of the board of directors of this association, and such men as John H. Converse, W. L. Elkins, Charles H. Cramp, Samuel Disston, and Justice C. Strawbridge, and others of equal prominence from Philadelphia and other localities, are members of the board. We have started the subscription to the stock with good, liberal sums, and it is expressly stipulated that if any surplus is left over after the payment of the amount subscribed to the stock it shall be turned over as a part of the permanent endowment fund.

EXHIBIT B.

Statement of Mr. William C. Barker, president of W. C. Barker & Co., of New York City, exporters of agricultural implements and machinery.

GENTLEMEN OF THE COMMITTEE: I address you on behalf of the agricultural implement and allied lines, * * * to bring the importance of the industry to your minds and its bearings upon the commerce of the world.

Taking the bulletin of statistics dated April 6, 1894, which are the latest official figures we have, we find the following: Total number of establishments engaged in the manufacture of implements and vehicles and allied lines, 10,900; total capital invested, \$298,304,737; number of employees, 148,918; cost of materials, \$117,282,861; amount paid in wages annually, \$7,744,665, covering 37 States; value of produce annually, \$260,383,365.

It is estimated that the above figures will represent the year 1897 as well as 1896, notwithstanding the depressed condition of trade during the last three years, for during this time the export trade has increased nearly 50 per cent.

Unfortunately I have only the figures of the exports of agricultural implements and allied lines for 1896 and 1897, which are as follows: For 1896, \$11,232,909; for 1897, \$15,112,283, which gives us an increase for 1897 over 1896 of about 20 per cent, and it is thought that 1898 will show a still greater increase in exports over 1897.

It has become an old saying that American harvesting machinery harvests the crops of the world. It is almost as true to say that American bicycles control the markets of the world in that department.

We need not go back but a few years to find that American plows were unknown in foreign countries, and the American harrows and other cultivating tools were also unknown to them.

The Centennial Exposition of 1876 opened the way to demonstrate to the world at large what we were doing in this department of industry, and from that date we have made wonderful strides. We are rapidly gaining the markets of the world, and our advance in this department of manufacture has been such that England, Germany, France, and other Governments are seeking by every means within their treaty rights to put up barriers to keep us from capturing their home markets, as we have already done with the neutral markets. There is no factor so potent in this work or so effective as to show the people of foreign countries our implements and vehicles in their finished state, and to have them see for themselves the work that they will do in the fields, and this can only be done successfully through exhibitions conducted either by private parties or public institutions.

Our honored president, in his speech at the dinner of the National Association of Manufacturers in New York, recently, made a remark that is very true. He said: "If we can not bring the buyers of foreign countries to the manufacturer, the manufacturer must go to the buyers."

The Philadelphia Commercial Museum is a medium through which the buyer is brought closer to the manufacturer and the manufacturer to the buyer.

Speaking for myself, I look upon the exhibition to be held in Philadelphia, the appropriation for which now depends upon your decision, as being nearly as important as that to be held in Paris in 1900.

The Philadelphia exhibition will bring buyers and representatives here from South America and other neutral markets, while the Paris Exposition will draw its support from Continental countries, who are our strongest competitors.

In 1876 Philadelphia had no commercial museum, but her public-spirited citizens gave us the Centennial Exposition, the greatest the world had ever seen at that time. Now she has an organization, supported by her citizens in State and city, and her public-spirited men are proposing to give us another exposition, the like of which the world has never seen.

I desire to say further, Mr. Chairman and gentlemen of the committee, that I was not informed until yesterday that I was expected to appear before you in this connection to-day, and therefore I sent out yesterday 52 telegrams to large manufacturing establishments in 18 different States of the country, asking for a special opinion from each as to the practical advantages of the work which the Philadelphia Commercial Museum is doing for the export interests of the country, and whether or not the Philadelphia Exposition of 1899 should receive recognition and financial support from the National Government. I received 31 answers to that telegram from 13 different States, indorsing in the highest terms the splendid work which the Philadelphia Museums have inaugurated and are carrying forward, and stating in the most emphatic manner that the exposition should, to the fullest extent, be recognized and supported by liberal appropriations from the Congress.

EXHIBIT C.

Statement of Mr. H. C. Staver, of Chicago, chairman of the executive committee of the National Association of Agricultural Implement and Vehicle Manufacturers.

I represent the National Association of Agricultural Implement and of Vehicles Manufacturers. This association, national in its character, has to its credit the advancing of improved methods of agriculture to a higher degree of perfection than is found in any other country in the world. We believe we employ more labor at an average of higher wages than any class of manufacturers or of any organization aside from railroads. The increase in our output and the advance and improvement in our line is more marked than we believe can be said of any other class of manufacturing. Our products are staple in our own country, and for some time we have felt we ought to have the encouragement of the Government, as we need a wider market. Believing that our wares can not only be adopted in many of the foreign countries as an improvement over those which they have already, we think we shall be able to compete with the manufacturers of those countries and receive a fair share of the business.

Manufacturers of our class have felt for years and in our conventions have passed resolutions, many in number, urging Congress to give us a merchant marine to open to us the foreign field, knowing that there is a market to be had; that our goods in

quality can compete with any made in the world. We also know that before we can successfully enter the foreign market it is necessary for us to have detailed and specific information as to the exact requirements as to foreign markets, the exact style and kind of goods that are required in each section.

The gathering of this information is too expensive to any one manufacturer or a dozen manufacturers undertaking it. It should be done in a concerted movement. The attention of our manufacturers has been called to the work of the Philadelphia Commercial Museum. We have carefully watched the development of this institution. I, personally, as well as many other members of the association, have carefully examined its work and system, and we are convinced that the plan and work of this museum is correct and that the information given is intelligent and practical, and their system of studying the requirements and for making a detailed report, in which individual interests are interested, is excellent.

We have felt the value of its connections keenly. They brought to our State last July the most important body of buyers from Spanish America that ever visited our section as a body. Already some of us are reaping the harvest from the result of this visit. To Dr. Wilson, Mr. Harper, and the liberal people of Philadelphia and the great State of Pennsylvania, much credit is due for this wonderful undertaking, and they are to be congratulated on the grand success of this achievement. To complete this work, it can only be done by making it thoroughly national in its character, in order to secure the confidence and support of the manufacturers throughout the country. It must have the stamp and approval of the National Government.

I am convinced, and as far as I have been informed, the judgment of all manufacturers who have carefully looked into the work of this institution, is that it must be made a national institution and have the fullest official recognition of the National Government to secure the confidence of the manufacturers in America, and that it may have the confidence and cooperation of foreign governments, as well as foreign chambers of commerce, which is essential in this work.

The exposition which is to be held in 1899 is one that will bring great profit to the manufacturers that I represent, not only in the East, but in the West, provided the plans outlined are carried forward. I am convinced that such a gathering as will be present in 1899—bringing the manufacturers in direct contact with foreign buyers—will be of great benefit and add financial strength and help to increase the sale of products of our home manufactories. The exposition appeals to us manufacturers of the West very strongly. If we are not situated at the great gateway of foreign trade, at least this exposition will bring us in direct contact with the foreign buyers and put us on an equal footing with Eastern manufacturers.

I believe the business men of this country expect national support in an undertaking of this kind just as they do in improving harbors and building light-houses. It is only the national recognition and financial support of the Government in this undertaking that can bring it to the highest degree of perfection. The manufacturers of this country not only ask your support in this movement, but they pray that you may soon go further and give us a merchant marine—one that shall equal that of our parent country.

EXHIBIT D.

[Senate report No. 779, Fifty-fifth Congress, second session.]

The Committee on Commerce having considered the bill (S. 4080) providing for a national exposition of American products and manufactures at the city of Philadelphia, for the encouragement of the export trade, recommend its passage and submit the following as a report thereon:

It is desirable to encourage the extension of American industries, the increase of exports, reaching and developing new markets, especially at this time of strenuous effort on the part of American manufacturers to build up markets for their products in foreign countries; and the generally favorable reception given to such American manufactures as have been sent abroad indicates a relative excellence which assures them of a much wider demand if the conditions of such demand shall be generally studied and realized in the United States.

The importance of disseminating knowledge of foreign trade requirements has been recognized by the Governments of the United Kingdom, Germany, France, and other nations to the extent of dispatching commissioners to make thorough investigations, of gathering at great expense, for the instruction and profit of their individual interests, samples of the manufactured products most favored by each market under review; and of endeavoring in every way to bring together such information as will lead to more extended trade.

This systematic work on the part of other nations makes it eminently fitting that the Government of the United States shall assist and encourage any work of similar scope and reliability tending toward the better equipment and instruction of our producing and manufacturing interests.

There is an organization now in existence created under ordinances of the city of Philadelphia, which maintains the Philadelphia Commercial Museum, which has been actively engaged in this work for a sufficient period of time to have proven its ability to carry on the work and its national scope and importance, and which has the cooperation and support of the leading chambers of commerce and boards of trade in this country, and has extended its connections to prominent chambers of commerce in foreign countries, having already held a great international commercial congress at Philadelphia in 1897.

The next international congress, to be held in Philadelphia during the month of June, 1899, will bring together delegates from all the prominent chambers of commerce of South America, Africa, Australia, Asia, and of European countries, which delegates are leading business men of their respective countries, and will bring with them samples of the different manufactures in which they are now dealing, in order to instruct themselves as to the possibility of procuring similar articles from the United States.

These existing conditions afford a most favorable opportunity to hold an exposition, the main objects of which will be—

I. To show to foreign buyers the goods American producers and manufacturers offer for export.

II. To show our producers and manufacturers the character of goods they will have to compete with in the open markets of the world.

III. To show how American goods should be packed, labeled, and put up for export trade.

IV. To bring the producers, manufacturers, and merchants of the United States in direct personal contact with the principal buyers, merchants, and bankers of South America, Africa, Australia, Asia, and many of the European countries.

The board of trustees of the Philadelphia museums has, for the purpose of inaugurating and carrying on an exposition at the time and for the purpose above outlined, caused to be organized and duly incorporated, under the laws of the State of Pennsylvania, a corporation, not for profit, under the corporate title of "The Philadelphia Exposition Association," the members of which have been selected by the board of trustees of the Philadelphia museums and other cooperating organizations.

The city of Philadelphia and the State of Pennsylvania having already contributed to the said museums much valuable land and large sums of money, it is eminently fitting that the Government of the United States should supplement, by an appropriation, the efforts already put forth and thereby insure its success.

The scope and purposes of the Philadelphia museums and the Philadelphia Exposition Association are fully explained in the appendices marked respectively A and B, which are attached hereto and submitted as parts of this report.

APPENDIX A.

PHILADELPHIA MUSEUMS.

[233 South Fourth street. Established by ordinance of city councils, 1894.]

BOARD OF TRUSTEES.

Ex officio.—Hon. Daniel H. Hastings, governor of Pennsylvania; Hon. Charles F. Warwick, mayor of the city of Philadelphia; James L. Miles, president of select council; Wencel Hartman, president of common council; Simon Gratz, president of the board of public education; Dr. Edward Brooks, superintendent of public schools; Nathan C. Schaeffer, State superintendent of public instruction; J. T. Rothrock, B. S., M. D., State forestry commissioner.

Permanent trustees.—Daniel Baugh, Charles H. Cramp, William Pepper, M. D., LL. D., George F. Edmunds, Mrs. Cornelius Stevenson, Sc. D., Frank Thomson, John Wanamaker, Simon Gratz, Thomas Meehan, Thomas Dolan, Wm. M. Singerly, William L. Elkins, P. A. B. Widener, Sydney L. Wright.

OFFICERS OF THE BOARD OF TRUSTEES.

Wm. Pepper, M. D., LL. D., president; Charles H. Cramp, vice-president; Sydney L. Wright, treasurer; William M. Watts, secretary.

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OFFICERS OF THE MUSEUM.

Wm. P. Wilson, Sc. D., director; William Harper, chief of the bureau of information; C. A. Green, assistant chief of the bureau of information; Wilfred H. Schoff, foreign secretary of the bureau of information; Gustave Niederlein, chief of the scientific department; Wm. B. Marshall, curator of natural products; Louis J. Matos, chief of laboratories.

OFFICERS OF THE ADVISORY BOARD.

President, vacant; retiring president, H. W. Peabody; vice-presidents, P. A. B. Widener, Philadelphia; Carlos Rogers, Chile; William R. Grace, New York; Antonio E. Delfino, Venezuela; Zina R. Carter, Chicago; Alejandro Garland, Peru; Fernando Ferrari Perez, Mexico; Luis Gieseken, Colombia; Fernando Mendes de Almeida, Brazil; Mauro Fernandez, Costa Rica; Carlos Lix Klett, Argentina; Federico Mejia, Salvador; P. de Murguiondo, Uruguay; G. H. Richter, British Guiana; Felix Ehrman, Panama; secretary, William Harper, Philadelphia.

OFFICERS OF THE DIPLOMATIC ADVISORY BOARD.

Señor Don Matias Romero, envoy extraordinary and minister plenipotentiary of Mexico in the United States; Señor Don Julio Rengifo, chargé d'affaires of Colombia in the United States; Señor Don Salvador de Mendonça, envoy extraordinary and minister plenipotentiary of Brazil in the United States; Señor Don Antonio Lazo Arriaga, envoy extraordinary and minister plenipotentiary of Guatemala in the United States; Señor Don Domingo Gana, envoy extraordinary and minister plenipotentiary of Chile in the United States; Señor Don Jose Andrade, envoy extraordinary and minister plenipotentiary of Venezuela in the United States; Señor Don Luis Felipe Carbo, envoy extraordinary and minister plenipotentiary of Ecuador in the United States; Dr. Martin Garcia Mérou, envoy extraordinary and minister plenipotentiary of the Argentine Republic in the United States; Mr. J. N. Leger, envoy extraordinary and minister plenipotentiary of Haiti in the United States; Señor Don J. D. Rodriguez, envoy extraordinary and minister plenipotentiary of the Greater Republic of Central America in the United States; Señor Dr. Don Victor Eguiguren, envoy extraordinary and minister plenipotentiary of Peru in the United States; Señor Dr. Don Luis Paz, envoy extraordinary and minister plenipotentiary of Bolivia in the United States; Señor Don J. B. Calvo, minister resident of Costa Rica in the United States; Hon. Prudencio de Murguiondo, consul-general and acting minister of the Oriental Republic of Uruguay in the United States.

THE OBJECTS OF THE INSTITUTION.

1. To gather from all parts of the world and to make immediately available to business men full and specific information concerning trade conditions and trade connections.
2. To place on exhibition manufactured products from other countries, in order that our manufacturers may be properly informed concerning the requirements of markets which it may be possible for them to enter.
3. To bring before the manufacturers, dealers, and consumers of the United States samples of all the varied products of the world, that they may know and choose such as are useful to them.
4. To make complete examinations, analyses, and tests of these products, and to publish such information concerning them as may lead to a general understanding of their usefulness.

THE PHILADELPHIA COMMERCIAL MUSEUM.

The closing of the World's Columbian Exposition in the fall of 1893 offered the opportunity for bringing together in a permanent exhibition an immense collection of the varied products of the world which illustrate the commerce of the United States with foreign countries. The possibility of making such collections having been called to the attention of city councils, an ordinance was passed on October 19, 1893, appropriating the sum of \$10,000 to defray the necessary expenses.

Philadelphia's proposition permanently to exhibit these products for the benefit of foreign commerce was accepted by the ministers of the Latin-American countries. Extensive exhibits were also secured from Africa, Australia, Japan, and India. As a result of this, there was transported to Philadelphia the largest and most comprehensive permanent collection of raw products in existence. Through the work of special commissions and agents in foreign countries these collections are constantly increased.

On the 1st of August, 1895, the old offices of the Pennsylvania Railroad Company were leased on nominal terms for a period of five years. These offices afford about 200,000 square feet of exhibition space, included in over 100 rooms.

On the 27th day of June, 1895, the city councils passed an ordinance giving over to the trustees 8 acres of land. By an ordinance approved October 10, 1896, 8 acres more were added to this, making 16 acres.

Appropriations for establishing the Philadelphia Museums.

On the 19th of October, 1893, there was appropriated for the beginning of this work.....	\$10,000
In March, 1894, councils appropriated	25,000
In the month of December, 1894, councils appropriated for general maintenance for the coming year.....	20,000
On the 26th of December, 1895, the trustees received from the city for maintenance and enlargement.....	65,000
About the same time there was set aside for a retaining wall on the grounds already given by the city	15,000
July 16, 1896, an ordinance was passed giving to the museums for equipment and building.....	200,000
By an ordinance passed in December, 1896, the museums received for maintenance for the following year.....	75,000
To this there was subsequently added.....	10,000
A bill was passed during the 1897 session of the Pennsylvania legislature appropriating for building purposes.....	50,000
By an ordinance passed in December, 1897, the museums received for maintenance for the following year.....	100,000
During the fall of 1897 the city, at a general election, voted to be appropriated for buildings.....	200,000

ORGANIZATION.

BOARD OF TRUSTEES.

Under the date of June 15, 1894, the city councils of Philadelphia passed an ordinance creating a board of trustees to organize and direct the Philadelphia Museums.

This board consists of the governor of the State of Pennsylvania, the mayor of the city of Philadelphia, the presidents of select and common councils of the city of Philadelphia, the State superintendent of public instruction, the State commissioner of forestry, the president of the board of public education of the city of Philadelphia, and the superintendent of the public schools of Philadelphia.

The above are *ex officio* members. All other trustees, now fourteen in number, are life members of the board, having been appointed by councils and approved by the mayor.

ADVISORY BOARD.

In order that the work of this institution might be made wholly national in its scope and usefulness, there has been organized a national advisory board.

This board consists of members elected by the chambers of commerce, boards of trade, and other commercial organizations throughout the United States.

The first meeting of this advisory board was held in the museum buildings June 2, 3, and 4, 1896. There were present delegates from over fifty of the principal trade organizations of the United States.

By unanimous resolution, adopted June 3, 1896, it was resolved:

"That the advisory board shall be composed of official delegates appointed either directly by the various Governments or by the representative commercial bodies of these countries, as follows: United States of America, Canada, Mexico, Guatemala, Honduras, Nicaragua, Salvador, Costa Rica, United States of Colombia, Venezuela, Brazil, Argentine Republic, Paraguay, Uruguay, Bolivia, Chile, Peru, Ecuador, and others.

"That the advisory board shall exercise a general supervision over the administration of the museum, in order to promote its development and foster the efficiency of its service for the interest of commerce."

The second meeting of the advisory board was held at the museum June 2, 3, 4, 5, and 6, 1897. There were present delegates from the various bodies of the United States, and also from the principal commercial organizations of the Latin-American nations.

By unanimous vote, June 3, 1897, it was resolved that membership of the advisory board should be extended to South African, Australasian, Asiatic, and other countries.

14 EXPOSITION OF AMERICAN PRODUCTS AND MANUFACTURES.

DIPLOMATIC ADVISORY BOARD.

The necessity of frequent negotiations with foreign governments led to the organization of the honorary diplomatic board, and in 1897 thirteen heads of legations at Washington for Latin-American Republics had accepted diplomas of membership. The function of this board is to facilitate communications with governments, to extend inquiry services through their consulates, and to obtain the advantages of the experience of these diplomatic officials.

DEPARTMENTS.

1. SCIENTIFIC DEPARTMENT.

The work of this department is directed toward the collection and exhibition of the world's raw products and the analysis and examination of all such materials.

The exhibits in this department are arranged (1) geographically and (2) monographically, and they are subjected to (3) laboratory tests.

1. Exhibits according to countries.

Under this classification a visitor may study the resources and commercial features of any particular country. He can see the extent and variety of its products, and investigate the character of its industries, climate, and soil. He can note the means of transportation and manner of communication with the commercial world; and so be enabled to derive from the exhibits, maps, charts, and other data collected valuable information necessary in the conduct of his business.

2. Exhibits according to kinds of products.

Under this classification the manufacturer, merchant, or consumer, interested in any particular commodity, may here find systematically arranged and displayed samples of the various products which interest him. These are brought together from all sections of the globe, and are accompanied by all obtainable data whereby he may judge of their commercial value. For instance, the manufacturer of woods finds displayed for his benefit thousands of samples, embracing nearly all the woods of the world in sufficient size and quantity, and with data necessary for him to determine their value in his particular industry. Likewise, the textile manufacturer here finds samples of the wools, silks, cottons, vegetable fibers, etc., from every foreign country, comprising the most varied and complete collection of its kind in existence. The collections of hides, skins, leather, tanning materials, dyestuffs, food products, oils, medicinal drugs and herbs, minerals, etc., are intended to enable the dealers in these products to keep fully posted upon the constantly changing conditions of the markets of the world. These collections are renewed and augmented as the progress of industry may require.

3. Laboratories of technology and tests.

These laboratories have for their main object the examination and analysis of raw and manufactured products, which may be sent from any of the countries represented in its collections, or by private individuals, who wish to determine through chemical and other tests the commercial value of the materials presented.

The services of the laboratory are at the disposal of any person or firm desiring tests or analyses who complies with its requirements. At the present time it is supplied with apparatus and appliances for the investigation and analysis of ores, minerals, and metallurgical products (except the assaying of gold and silver), coals, animal and vegetable materials, fibers, and the manufactures therefrom.

Owing to the importance of the textile industries and the increased attention paid to the scientific investigation of all the processes through which raw fibers, whether cotton, wool, silk, jute, ramie, etc., must pass in order to become marketable commodities, this part of the laboratory work has been given special prominence.

2. BUREAU OF INFORMATION.

The work of this department is directed toward securing complete and practical information concerning all the principal trade centers of the world, the character of the business houses located in each center, and the local demand for commodities of every description.

The information collected is of such a kind as to render material assistance to any manufacturer or exporter who may be desirous of a more extended trade in foreign markets.

The bureau is aided in its work by the following sections:

EXHIBIT OF FOREIGN MANUFACTURES.

This collection shows samples of merchandise now being sold in foreign countries, especially in the markets of Latin America, Australia, South Africa, and other promising fields. The object is to show to the American manufacturer what his competitors are doing in the foreign trade of these countries, and to suggest to him new lines of goods which he may produce and sell with profit. The practical value of this department will be at once recognized. The manufacturer of cotton goods, for instance, who is desirous of wider markets for his products, may here find thousands of samples, showing him in the greatest detail the styles of goods which are now being sold. He may inform himself concerning the weights, widths, lengths, and patterns which are in favor. Each sample is accompanied by the manufacturer's price. With this information the American manufacturer is put in a position to judge of any market as to whether it would be advisable for him to attempt to claim a share of its trade. Equal facilities are offered to manufacturers of hardware and cutlery, boots and shoes, hats, caps, woolens, and many other lines of products.

Novelties and improvements made by foreign manufacturers in standard goods and staples are promptly noted.

By frequent additions this collection is equipped to give a good idea of important changes in the demand for any line of commodities.

COMMERCIAL LIBRARY.

It is the purpose here to gather all publications of value bearing on the world's commerce. The library is receiving many hundreds of publications on trade, commerce, and finance, including nearly every important journal in the world. Business directories and books of reference in all languages are kept on file. Statistical publications, consular reports, and official government reports are received from all countries.

The library is open to the public and its resources are at the disposal of all who find them useful.

WORK OF THE BUREAU OF INFORMATION.

It is the work of the bureau of information to bring together all possible data relating to foreign commerce; to index and compile this information so as to render it accessible to each individual interest. By means of an elaborate system of card indexing all the prominent trade journals of the world, consular reports of the United States and foreign governments, and all trade reports of the various chambers of commerce and boards of trade of the world are carefully digested and indexed, so that every item of information bearing on a specific line of products or special commercial subject is carefully noted and classified.

This commercial information, which comes to the institution in printed form, is further supplemented by extensive and systematic correspondence. Constant communication is maintained with all chambers of commerce and other commercial organizations represented on the advisory board of the institution; with foreign governments and government commissions appointed to collect, augment, and renew the raw products; with all United States consuls and with paid representatives of the museums abroad. These connections embrace an organized corps of correspondents numbering several thousand.

Through this careful compiling of printed matter bearing on commercial subjects and through extensive correspondence with all foreign markets, an exhaustive study is made of the requirements of foreign trade. All facts relative thereto are compiled and made available in as concise and definite form as possible to manufacturers and business men.

The manufacturer or dealer who desires to import raw products of foreign countries is shown samples in the museum, and through its bureau is advised as to the prevailing prices in the country of origin, the means and cost of transportation, quantity available, and conditions under which the particular product desired can be procured.

To the manufacturer and business man who desires to enter into business relations with foreign markets the bureau gives advices concerning the commerce of all countries, their customs and commercial relations, their international treaties, their system of communication and transportation, with special details of freight rates, tariffs, exchanges, and currency. It is the purpose of this department to be sufficiently broad in its scope to command the good will and cooperation of manufacturers, bankers, commission houses, transportation companies, and others interested in the development of American commerce.

Samples are shown of what European manufacturers are now making for export trade. By inspection of these samples, comparison of prices, and examination of the detailed reports as to the specific requirements of the foreign markets from which the samples come, the American manufacturer is enabled to determine where his products may best be pushed abroad, and what competition they will meet.

The bureau of information is not limited in its work by the special requirements of any individuals, organizations, or sections. Its connections are world-wide and its investigations cover every foreign market.

Full details as to the competition to be met is furnished to the manufacturer in regular monthly reports, as follows:

First. Character and variety of goods demanded in each market.

Second. The country from which imported, together with the names and addresses of foreign manufacturers, where possible.

Third. The quantity imported annually.

Fourth. The manufacturer's price at the factory.

Fifth. The retail price in each city where sold.

Sixth. The transportation charges from Europe to each market compared with similar charges from the United States.

Seventh. Import duties.

Eighth. Character of packing.

Ninth. The names and addresses of importers.

These reports are not confined to any one field or section, but cover the whole world.

This bureau also collects detailed information concerning all public improvements in progress or contemplated in export fields which may be of interest to the business men of the United States.

In addition to these commercial reports, the bureau constantly receives and compiles records of the prominent business houses in all important trade centers outside of the United States. The fullest possible information is given as to the lines of goods and foreign agencies carried by each firm. The lists are carefully revised in order to omit all names of undesirable connections.

As the records are completed they are transferred to card-index cabinets. Special cabinets are prepared for individual business houses, so that any American manufacturer can have reliable lists of desirable possible buyers in his line throughout the export markets of the world. These card files are loaned to the subscribers of the museum.

They are kept carefully corrected and up to date.

The bureau holds itself in readiness to make special investigations and reports concerning any subjects of commercial interest and relating to any part of the world.

SYSTEM OF DISTRIBUTING INFORMATION.

The information collected and compiled by the bureau of information, as heretofore set forth, is distributed—

First. To members. For the benefit of those who wish to have the full advantage of this work and to follow it up by a systematic effort to secure foreign trade, there has been arranged a regular service, as follows:

Detailed reports on the conditions attending the introduction of the products of each member into foreign markets. Each report covers the trade of one market, and such reports are sent at least once a month.

Special investigations are made according to request. Inquiries of all kinds receive prompt attention.

Business correspondence is translated.

A card file of foreign merchants, as heretofore described, is loaned to each subscriber.

Membership is secured by payment of an annual fee of \$50. This has been estimated as the actual cost of copying, compiling, printing, and mailing the various reports and information sent. These fees are not used for the maintenance of the museum, which is derived from public appropriations. The institution is a public one, with no private ends to serve.

Second. To casual inquirers. The bureau answers inquiries of the nature described without charge. Should the number of such inquiries received from any individual be so large as to indicate the desirability of a systematic service, regular membership is recommended.

Third. All individuals who call personally at the museum are given full opportunity to make investigations on their own account and receive such attention as is found necessary and desirable, free of charge.

APPENDIX B.

THE PHILADELPHIA EXPOSITION, CONDUCTED BY THE PHILADELPHIA EXPOSITION ASSOCIATION.

[Incorporated under the laws of the State of Pennsylvania, December 28, 1897.]

Officers.—President, P. A. B. Widener; vice-presidents, W. W. Foulkrod, Dr. William Pepper; treasurer, Sydney L. Wright; secretary, William M. Watts; director-general, William Harper.

Directors.—P. A. B. Widener, W. W. Foulkrod, Wm. L. Elkins, A. B. Farquhar, John Birkinbine, Arthur Brock, Edwin S. Cramp, John H. Converse, J. C. Strawbridge, Thomas Dolan, Wm. P. Wilson, William Pepper, Daniel Baugh, Sara Y. Stevenson, Sydney L. Wright, Theodore N. Ely, Samuel Disston, Samuel F. Houston, George H. Leaf, Wm. M. Watts, William Harper, C. A. Green, Theodore C. Search, George F. Edmunds, Joseph H. Harris.

Finance committee.—William L. Elkins, Thomas Dolan, Joseph H. Harris, J. C. Strawbridge, Samuel Disston.

Exposition committee.—P. A. B. Widener, James M. Dodge, Wm. L. Elkins, John Birkinbine, Theodore N. Ely, J. C. Strawbridge, William Pepper, George V. Cresson, W. W. Foulkrod, Henry R. Heyl, Sydney L. Wright, Wm. M. Watts, F. Lynwood Garrison, William Harper, William P. Wilson.

THE PHILADELPHIA EXPOSITION ASSOCIATION.

[Incorporated December 28, 1897, conducting the First National Exposition of American Manufactures especially suited for export trade, to be held at Philadelphia from May to October, 1899.]

The Philadelphia Exposition, an exposition for the developing of American manufactures and expansion of our export trade.

Among the many striking features in recent American development, none perhaps is more universally remarked than the tendency on the part of our manufacturers to seek in foreign countries new markets for the sale of their products.

This export movement has been so systematic as to point to something more than temporary need or passing opportunity. The excellence and diversity of our manufactures are well worth the attention of foreign buyers.

The experience of the past has shown that American manufactures meet with favor among foreign buyers. They compete successfully with European products, not only in fields common to both, such as South America, Africa, Asia, Australia, but in Europe and England itself, at the very doors of the factories of their competitors.

The march of American export trade to the position which it can rightly claim in the world's commerce has been hindered and delayed by two causes:

I. Lack of information on the part of American manufacturers as to the specific requirements of the markets they wish to enter and control.

II. Lack of information on part of foreign buyers respecting the superiority of American products, due to the absence of any systematic attempt to enlighten them.

The international commercial congress, held in June-July, 1897, under the auspices of the Philadelphia Commercial Museum, is still in the public memory. The delegates to that congress were prominent merchants appointed by the leading commercial organizations of Latin America. During the meeting in Philadelphia and the subsequent tour to some of our principal industrial centers, the expression most frequently noted on the part of these delegates was one of amazement and surprise at the degree of perfection attained by American industry. In the reports which they have made to their chambers of commerce no fact has been more strongly emphasized than that the products of the United States are not sufficiently known abroad, and that it is to the interest of a foreign merchant to make a careful examination of the field.

There will be held a second international commercial congress at Philadelphia under the same auspices, in June, 1899. At that time there will be represented not only the leading chambers of commerce of Latin America, but also those of South Africa, India, Australia, China, Japan, and other countries. This will bring together about 400 leading merchants from all parts of the world, who will come to make business connections in the United States, and to discuss the best means of extending American trade into their respective countries.

The convocation of this congress affords a most excellent opportunity for holding an exposition of such American manufactures as are best suited for export trade. Such an exposition, representing all lines of industry, will give to a foreign merchant an unusual opportunity to study and examine what he can best buy in the

United States, and will undoubtedly be the means of attracting large numbers of buyers from all parts of the world. The cooperation and approval of foreign chambers of commerce is already assured.

In order to organize and conduct such an exposition of American manufactures suited for export there has been incorporated, under the laws of Pennsylvania, an organization entitled The Philadelphia Exposition Association.

The association will have the united support of the Philadelphia Commercial Museum and of the Franklin Institute of Philadelphia.

The exposition will be held in permanent fireproof buildings to be erected on land set aside for that purpose by the city of Philadelphia, in extent about 25 acres. This site is centrally located and easy of access.

The exposition will be open to the public on May 10, 1899, and will remain open for five months.

The main objects of the exposition are:

1. To show to foreign buyers the goods American manufacturers offer for export, and to establish their superiority.
2. To show to American manufacturers the character of goods they must compete with in the open markets of the world.
3. To show how American goods should be packed, labeled, and put up for export trade.
4. To bring the manufacturers and merchants of the United States in direct personal contact with the principal buyers, merchants, and bankers of foreign countries.

DEPARTMENTS OF THE EXPOSITION.

I.—*Exhibit of American manufactures.*

This will constitute the most extensive feature of the enterprise. The plans are thoroughly comprehensive to attain the objects in view. Every effort will be made to display none but representative exhibits from representative manufacturers. This will make the exposition unusually attractive.

This department will include numerous sections, classified according to products exhibited. There will be a textile section, showing American piece goods of weight, widths, and patterns most in favor abroad; a hardware section; an electrical section; a machinery section, supplied with necessary power, in which the best types of American inventive genius will be displayed; an agricultural section, devoted to agricultural machinery, implements, and tools, farm wagons, carts, and the thousand and one devices which have placed American farms in the forefront of the world's agriculture; a shoe and leather section, of great interest now that American products in these lines are in such growing demand abroad; a furniture section, in which there will appear articles unapproached in excellence or cheapness by any other country; a section of household articles and novelties; one of carpets, floor coverings, and upholstery; one of food products; one of drugs and chemicals; one of wearing apparel, notions, etc.; one devoted to transportation, of particular importance now that surface railways of every kind are being so extensively constructed in new countries; and, finally, a miscellaneous section, including all other products of interest in an exposition of goods specially for export.

II.—*Exhibit of European manufactures.*

A second department will comprise exhibits of goods manufactured in European countries for the export trade of the world. They will be selected by competent specialists of the exposition, and will be complete and systematic illustrations of the requirements of different export markets. This department will be so organized as to show to American manufacturers just what competition they must meet abroad. By examination of these European goods an accurate judgment can be reached as to how far adaptations and alterations must be made in similar goods made here, and how far the American goods will find a market without modifications, owing to their present superiority.

III.—*Packing and shipping.*

A third department of the exposition will show in detail how American goods must be packed, labeled, and shipped in order to meet the requirements of foreign trade. The value of this department can hardly be overestimated. In some countries, for instance, forms of packing that are usual with us entail heavy losses on foreign merchants through increased import duties. In other countries goods must be carried into the interior in carts or on mule back, and must therefore be put up in packages of convenient size and weight. In still other cases custom-house regulations require packages to be marked on the sides, with stencil, or in other ways not usual in the United States. Ignorance of these requirements has more than once led

to serious losses, and even bad feeling between the American manufacturer, who does not realize the necessity of departing from home methods, and the foreign merchant, who thinks that he is being willfully injured. This department of the exposition will aim to include all necessary specimens, models, and exhibits, to obviate in the future all difficulties of this character.

The exposition will provide such other features as will attract the general public and insure a large and constant attendance.

The primary purpose of this Philadelphia Exposition will be to foster and encourage American export trade. It will be the first of its kind ever held in the United States. In its scope it will be thoroughly national. It will be unique in that its exhibits will be designed to represent the best and most suitable products of the best American factories.

All communications should be addressed to William Harper, director-general, 233 South Fourth street, Philadelphia, Pa., U. S. A



HALBERT E. PAINE.

APRIL 23, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1481.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1481) granting an increase of pension to Halbert E. Paine, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$30 to \$50 per month the pension of Halbert E. Paine, of Washington, D. C.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1481) granting an increase of pension to General Halbert E. Paine, have examined the same and report:

Your committee herewith submit the report as was set forth by the records of the War Department, and recommend the passage of the bill with an amendment:

In lines 7 and 8 strike out "seventy-five" and insert "fifty."

The report from the War Department is as follows:

"It is shown by the records that Halbert E. Paine was mustered into service as colonel with the Fourth Wisconsin Infantry Volunteers July 2, 1861, to serve three years. He was commissioned brigadier-general of volunteers April 9, 1863, to rank from March 13, 1863, and accepted the appointment June 4, 1863, and was honorably discharged, on tender of resignation, to date May 15, 1865, in Special Orders No. 232, paragraph 24, Adjutant-General's Office, dated May 16, 1865.

"While colonel of the Fourth Wisconsin Infantry Volunteers he commanded the Second Brigade, Third Division, Nineteenth Army Corps, Department of the Gulf, from January 3, 1863, to the date of his commission as brigadier-general of volunteers.

"He was wounded in the left leg while in command of the Third Division, Nineteenth Army Corps, at the battle of Port Hudson, La., June 14, 1863. No record of his treatment has been found, the records of general hospital Hotel Dieu, New Orleans, La., to which he appears to have been sent from Port Hudson, La., not being on file, but from a statement by the medical director, Department of the Northwest, dated at Milwaukee, Wis., August 11, 1863, it appears that on the 24th of June, 1863, General Paine's left leg was amputated below the knee at New Orleans, La.

"General Paine subsequently served as a member of a military commission, Washington, D. C., where he also performed court-martial duty; as commander of the district of Illinois, Northern Department; as agent at New York City for sending supplies to Federal prisoners in the hands of the enemy; and, finally, as an aid to General Schurz in organizing the First Corps (Hancock's).

"He was brevetted major-general United States Volunteers, to date March 13, 1865, 'for conspicuous gallantry on several occasions, particularly for the attack on Port Hudson, La., May 27, 1863.'

"In a report of the operations of the Department of the Gulf during the siege of Port Hudson, La., dated June 14, 1863, Maj. Gen. N. P. Banks made the following reference to General Paine:

"'I regret to say that that gallant officer, Brig. Gen. Halbert E. Paine, fell severely, but it is thought not dangerously, wounded, while leading the Third Division to the attack.'

"In a report of Maj. James P. Richardson, commanding Thirty-eighth Massachusetts Infantry Volunteers, dated July 14, 1863, on the part taken by that regiment in the siege of Port Hudson, the following reference to General Paine appears:

"'On the 13th of June we formed with the rest of the Third Division in order of battle for an assault upon the enemy's works. The next morning, on the 14th, at daylight, our regiment was deployed as skirmishers, and, under the lead of General Paine, went forward on the double-quick under a very severe fire from the enemy.'

"In a communication dated Port Hudson, La., June 17, 1863, Brig. Gen. W. N. R. Beall referred to General Paine as follows:

"'General Paine was wounded in three places—in the leg, side, and shoulder—and lay all the day of the fight near our breastworks; he will lose a leg.'

Your committee offer the following statement from Hon. Knute Nelson, United States Senator from the State of Minnesota:

"He was the colonel of the regiment in which I served. I was present and in the charging column in the advance regiment of the division under the command of General Paine at the great charge at Port Hudson on the 14th of June, 1893. In gallantly leading this charge he lost his leg, from which he has been in great suffering ever since. He was one of the most honest and best officers I ever met, beloved by his men in a mutual degree. He is now over 70 years of age, and has met with recent financial reverses, debilitated by wounds and advancing years for further active work, and in reduced financial circumstances. It seems to me that in view of these facts and of the splendid record of General Paine in the Army, he ought to be accorded the small increase asked in this case.

"KNUTE NELSON."

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 6, after the word "of" and before the word "Halbert," strike out the word "General."

In line 7, after the word "pension," insert the words "at the rate."

Amend the title so it will read: "An act granting an increase of pension to Halbert E. Paine."

THOMAS EDSALL.

APRIL 23, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3660.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 3660) granting a pension to Thomas Edsall, have examined the same and the evidence relating thereto and respectfully report:

This act proposes to pension at the rate of \$12 per month Thomas Edsall, of Grafton, Ill.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 3660) to pension Thomas Edsall, have examined the same, and report as follows:

The record in Pension Office shows that Thomas Edsall enlisted as a volunteer in Company E, Ninth Illinois Regiment, February 13, 1865, and was honorably discharged October 31, 1865; that he is now an old man 56 years of age, very infirm, and having a wife dependent upon him for support. He is childless, and has no one to look to for assistance. He has no personal property of any consequence and but 80 acres of land, upon which a mortgage rests for \$2,500, which, from evidence filed in the case, is nearly the actual cash value of the entire farm.

It is shown, after a careful examination of the medical board on April 18, 1893, that claimant "was rated at three-fourths for practical blindness of right eye and very defective vision in left eye."

In view of this testimony and further evidence in the case tending to show rheumatism and partial deafness of soldier, and in view of the further fact that soldier's claim for pension under act of June, 1890, was rejected by the Pension Office on the ground of no pensionable or ratable disability, your committee, after a careful examination of all the facts, conditions, and evidence in this case, recommend the passage of the bill.

STATE OF ILLINOIS, *County of Jersey*, ss:

On this 1st day of March, A. D. 1898, before me, a notary public within and for the said county and State, appeared Dr. J. Tidball, residing at Grafton, Jersey County, State of Illinois, who, after being sworn before me, states on his oath that he has been acquainted with Thomas Edsall, a member of Company E, Ninth Regiment Illinois Cavalry Volunteers, during the late rebellion, and has been his family physician for nearly twenty years; that he is a man of good moral character, and was a good worker when he was able to do work; that the present physical condition of said soldier is such that he can not earn a living by manual labor, and has no income from any other source.

J. TIDBALL, M. D.

Subscribed and sworn to before me this 1st day of March, A. D. 1898.

[SEAL.]

GEORGE N. SLATEN, *Notary Public*.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "and," strike out the words "that he be paid," and insert in lieu thereof the words "pay him."

SIMEON STEVENS.

APRIL 23, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 4169.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 4169) granting an increase of pension to Simeon Stevens, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$8 to \$20 per month the pension of Simeon Stevens, of Laconia, N. H.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 4169) granting an increase of pension to Simeon Stevens, have examined the same and report:

This bill passed the Senate during the Fifty-fourth Congress, the report being as follows:

“Claimant under this bill is drawing a pension at the rate of \$8 per month for malarial poisoning. It was approved for malarial poisoning and results, one result of which was alleged to be partial paralysis, but the medical referee declined to accept partial paralysis as a result. Soldier also claimed that he was suffering from scurvy as a result of his army service. Several medical examining boards rated the soldier much higher than the pension he is now receiving, in one instance the rate being fixed at \$32 per month.

“There is overwhelming evidence that the soldier, who has been a hard-working and temperate man, is now utterly incapacitated for the performance of manual labor. A letter from the chairman of the board of county commissioners of Belknap County says that he is constantly sick and is now a county charge.

“The present bill proposes to increase the pension to \$20 per month, and your committee report the bill back favorably with a recommendation that it do pass.”

Recent information shows that the claimant under this bill continues sick, and that he is still being cared for by the county. Believing that his rating is much below what his disabilities warrant, your committee again recommend favorable action on the bill.

The bill is therefore reported back with the recommendation that it pass.

OLIVE H. SOUTH.

APRIL 23, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 727.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 727) granting a pension to Olive H. South, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at \$12 per month Olive H. South, of Jackson, Ohio, formerly the wife of William W. Glenn, late of Company H, Second West Virginia Cavalry, who served from 1861 to 1866 and was honorably discharged.

She states that she was married to the soldier October 26, 1861, and went with him to the front, where she spent most of the time during the term of service of the soldier. It is shown that she was with the organization, assisting in looking after the sick, preparing food, and doing all in her power to add to their comfort.

After the war she and soldier lived together for about three years, when the soldier deserted her and went away with another woman. She secured an absolute divorce and the custody of their three children. In January, 1874, she was married to Thomas J. South, and lived with him until his death, March 9, 1875. She was then left with her three children by Glenn and one by South.

She got along as best she could, working for years sixteen hours a day in a tailor's shop to support her children. These children are now all self-supporting, but she is broken down and unable to support herself.

She seems to be universally loved and respected where known. There is no satisfactory evidence as to the length and the precise character of her service during the war. It does not appear with sufficient definiteness to show that she has an equitable claim for a nurse's pension under the present law.

It is not shown whether the soldier is dead or not, but she is divorced from him, and actually served as a nurse. She was the soldier's wife

during the war, and did much for the cause of the Union. Claimant is about 57 years of age.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 5 strike out the words "of Jackson, Ohio."

In line 7, after the word "Cavalry," insert the words "and pay her a pension."

Amend the title so as to read: "A bill granting a pension to Olive H. South."



MISSOURI B. ROSS.

APRIL 23, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9187.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9187) granting an increase of pension to Missouri B. Ross, have considered the same and the evidence relating thereto and respectfully report:

This bill as amended proposes to increase from \$8 to \$12 per month the pension of Missouri B. Ross, of 2107 K street NW., Washington, D. C., widow of Orlando H. Ross.

Orlando H. Ross was appointed by order of General Grant a special mail agent between Cairo and Paducah, at \$50 per month, from September 12, 1861. March 20, 1862, he was appointed special mail agent to take charge of, forward, and receive all mails on the Tennessee River. On November 1, 1862, by order of General Grant, Capt. C. A. Reynolds, chief quartermaster, was directed to place the name of O. H. Ross, special military mail agent, on his roll of extra-duty men for September and October, and pay him \$105 per month, and to continue his name on the roll and pay him as aforesaid while on duty until further orders. He was appointed a second lieutenant, Company D, Twentieth Illinois Infantry, to date from November 26, 1862, and was appointed and announced as agent and general superintendent of military mails for the Department of Tennessee.

On April 6, 1863, he was appointed a captain and aid de-camp of volunteers, to rank from March 11, 1863; accepted appointment May 1, 1863. He was discharged the service on tender of resignation September 7, 1864. He was borne on General Grant's staff from November 26, 1862, to March 16, 1864. No evidence of medical treatment while in the service has been found.

The soldier filed and established a claim under the general law, and was pensioned for left varicocele and resulting hydrocele at \$10 from date of discharge, \$15 from November 14, 1877, and \$20 from May 14, 1884.

Soldier died October 13, 1892, as it appears, from disease of heart.

The widow filed a claim November 1, 1892, under the act of June 27, 1890, which has been admitted, and she is pensioned thereunder at \$8 per month. December 9, 1892, she filed a claim under the general law and furnished testimony of those who were with him tending to show origin of rheumatism in the spring of 1862, alleging that he was then in the military service of the United States. She is shown to have been mistaken in regard to his having been in the military service of the United States as an officer or enlisted man. The records show that his first entrance to the service in that capacity was November 26, 1862; consequently she is not pensionable as his widow on account of death from disease of heart as a result of rheumatism contracted prior to November 26, 1862.

The service that he rendered before his muster in was of the same character and under the same orders as that rendered subsequently thereto, and he was in the military service of the Government before muster, as well as after; but he was not an officer or enlisted man in the Army of the United States at the time that it is alleged and has been attempted to be shown that rheumatism was contracted, but was a civilian employee.

The widow is now 56 years of age. Her financial condition is not shown otherwise than by the fact that she is a pensioner under the act of June 27, 1890.

It is not established that this claimant's husband died of disabilities incurred in the service, but, taking all the facts into consideration, your committee will aid the widow, who is dependent, by increasing the pension to \$12 per month.

This bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Grant," insert the words "and pay her a pension."

In line 7, strike out the word "twenty" and insert in lieu thereof the word "twelve."

Amend the title so as to read: "A bill granting an increase of pension to Missouri B. Ross."



JANE E. ZINK.

APRIL 23, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 4811.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4811) granting a pension to Jane E. Zink, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to pension at \$20 per month Jane E. Zink, of Steubenville, Ohio, who was formerly the widow of James M. Shane, lieutenant-colonel Ninety-eighth Ohio Volunteer Infantry.

Soldier served from January 20, 1863, to June 27, 1864, when he was killed in action at Kenesaw Mountain.

This claimant filed and established a claim as his widow, and was pensioned as such at \$30 per month from the date of his death until June 8, 1871, when she was married to William R. Zink, and by such marriage forfeited her pension.

She was married to the soldier November 14, 1854, and of course was his wife while he was in the Army and when he was killed in battle.

She now alleges that she is again a widow and in destitute circumstances.

As she is a woman of good character and needs assistance, the bill is reported back with the recommendation that it pass when amended as follows:

In line 5 strike out "Mrs."

Amend the title so as to read "A bill granting a pension to Jane E. Zink."

STEUBENVILLE, OHIO, *December 9, 1897.*

MY DEAR SIR: I herewith present to you my petition for restoration of pension as the widow of Col. James M. Shane, of the Ninety-eighth Ohio Volunteer Infantry, who fell in the battle of Kenesaw Mountain June 27, 1864.

I was pensioned under certificate No. 39843, and was upon the roll until June 8, 1871, when I became the wife of Mr. William R. Zink.

Dr. Zink died October 20, 1897, leaving me childless, and, by stress of circumstances, without suitable provision. I ask your influence and aid in securing the restoration of my pension, feeling certain I will not be denied, although you have probably forgotten me, in the lapse of years, as the daughter of Chaplain Ragan, and the widow of Colonel Shane.

Not wishing to overwhelm you with a mass of correspondence, I only send you a few letters from your personal friends, establishing my position and indorsing my claim. Will you kindly advise me if further steps are necessary upon my part, or other influence desirable. I can secure that of Gen. Anson G. McCook, Col. Harry C. Sherrard, or any other prominent resident here whom you may mention. Mr. John W. Trainor, of the Department of Justice, is also ready to assist you in any way.

I am, sir, very respectfully,

MRS. JANE E. ZINK.

Hon. LORENZO DANFORD, M. C.,
Washington, D. C.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

Your petitioner, Mrs. Jane E. Zink, whose post-office address is No. 254 North Third street, Steubenville, in the county of Jefferson and State of Ohio, respectfully represents that she was the widow of James M. Shane, colonel of the Ninety-eighth Ohio Infantry Volunteers, who was killed in battle and on account of whose service she was pensioned under certificate No. 39843. She remained his widow until 1871, when she married W. R. Zink, who has recently died.

She is without any means of support, is childless, and over 60 years of age.

There is no one legally bound for her support, and she is in poor health. She begs that her pension as the widow of Colonel Shane be now restored to her.

Very respectfully,

MRS. JANE E. ZINK.

STEUBENVILLE, OHIO, *December 6, 1897.*

DEAR SIR: Mrs. Jane E. Zink, a near neighbor of mine, and a warm personal friend of all our family, desires to be restored to the pension roll, which, under the existing circumstances, can only be done by act of Congress.

I presume she has furnished you with all the facts relative to her claim, which is a most deserving and worthy one, and will meet the hearty indorsement of all our citizens.

I would ask you as a personal favor to push her claim with all vigor, and I am sure with such good cause the result will be the one desired. I remain,

Yours, most sincerely,

JNO. L. MEANS.

Hon. L. DANFORD, M. C.,
Washington, D. C.

STEUBENVILLE, OHIO, *December 7, 1897.*

MY DEAR SIR: I am informed that Mrs. Jane E. Zink, of this city, is an applicant for the restoration of the pension granted her as the widow of the late Colonel Shane. The case is a meritorious one. While it is true she subsequently married, she is now a widow, and the widow of a gallant soldier. Her late husband was not a soldier, but that fact ought not to debar her from the bounty provided by the Government for her on account of the death of her former soldier husband, since she is left without means of support. The Government has been the gainer during all the years she was the wife of Mr. Zink. It is needless for me to state that Mrs. Zink is a lady whose life and bearing command the respect of all good citizens. She needs the pension she asks, and having given to her country the husband of her earlier years, whose record as a civilian and soldier is among those which make us all proud of our country, she ought not to be denied the mere pittance of a widow's pension. Trusting you may see your way clear to give her your aid and influence,

I remain, yours, truly,

R. G. RICHARDS.

Hon. L. DANFORD, Washington, D. C.

STEUBENVILLE, OHIO, *December 8, 1897.*

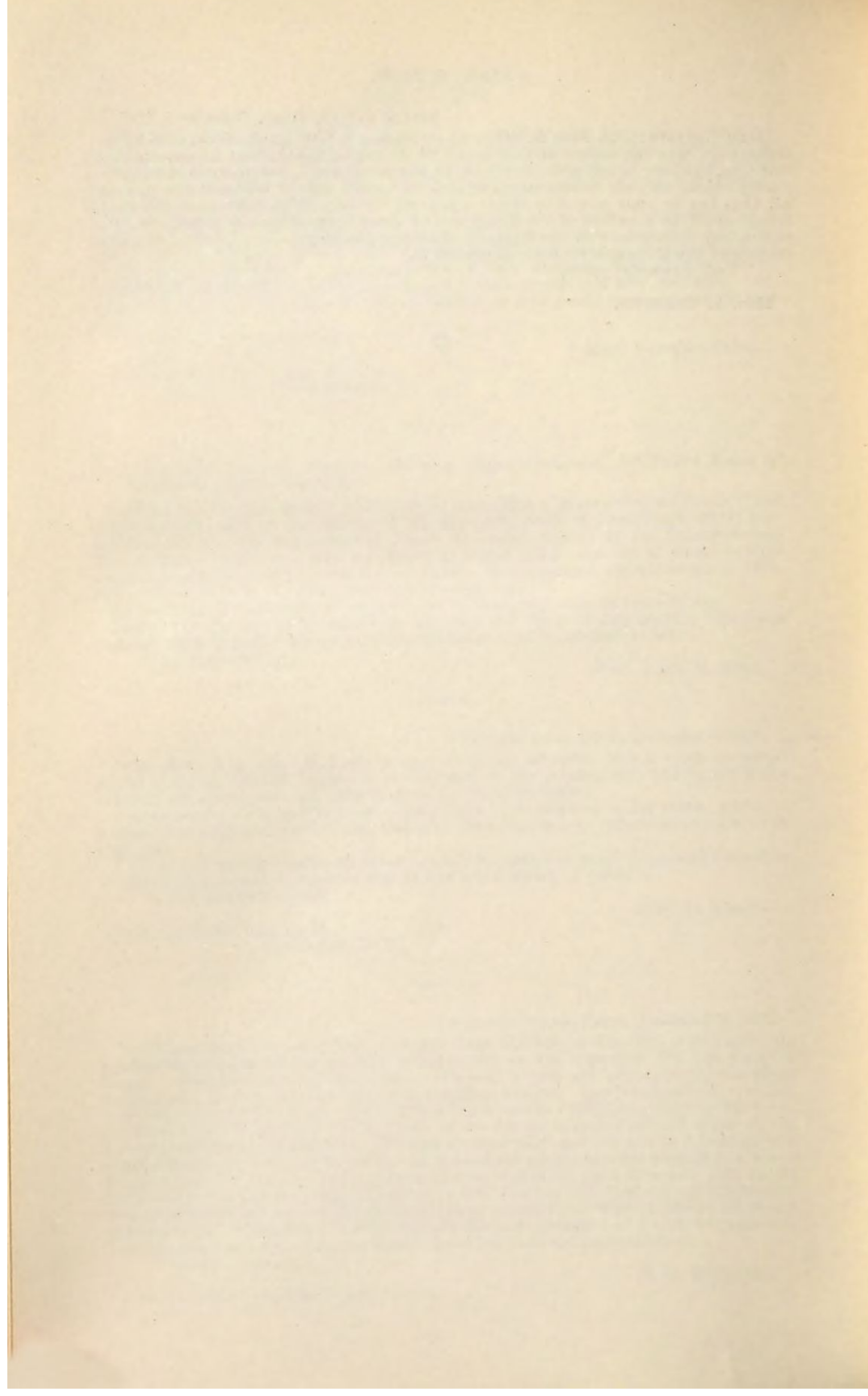
DEAR CAPTAIN: Mrs. Jane E. Zink, whose husband, William R. Zink, died a few weeks ago, was the widow of Col. James M. Shane, of the gallant Ninety-eighth. She was, until her marriage to Dr. Zink, on the pension roll, and there is every necessary reason why she should be reinstated by special act. I feel sure you will do all that lies in your power to secure a pension for her. Mrs. Zink is an intimate friend of all the members of our family and of many other friends of yours. If you desire any reassurance of the urgency of this application, J. J. Gill, esq., or your friends of the McGowan family can furnish it.

Very sincerely, yours,

W. MCD. MILLER.

Hon. L. DANFORD.

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RECLAMATION OF ARID LANDS.

APRIL 23, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SHAFROTH, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 9994.]

The Committee on the Public Lands, having had under consideration the bill (H. R. 9994) entitled "A bill for the reclamation of arid lands, and for other purposes," report the same with the recommendation that it do pass with the following amendments:

In line 8 of the first page of said bill strike out the word "purpose" and insert in lieu thereof the word "purposes."

Insert after the word "shall," in the fifteenth line of the third page of said bill, the following: "determine the lands to be arid within the meaning of this act, and shall."

Strike out the words "said land" in the twenty-second line of page 3 of said bill, and insert in lieu thereof the following: "that part of said land not so reclaimed."

Insert after word "thereunder," in the twenty-second line of the fourth page of the said bill, the following: "to so much land as may have heretofore been selected by said State."

This bill is practically a revision of the present laws relating to the reclamation of the arid lands, remedying those parts of the existing law so that the States can avail themselves of the benefits and provisions of the same.

The Carey Act, which grants 1,000,000 acres of land to each State upon their reclamation, has been in existence now for five years, and yet only one State in the Union has deemed it wise to proceed to reclaim lands under the same. The conditions and requirements under the Carey Act have been so difficult and numerous that no State except Wyoming has deemed it to its advantage to undertake the reclamation of any land thereunder. In Wyoming only in one instance has any actual work been done under the Carey Act, and that was to reclaim about 60,000 acres of land.

One of the difficulties under the Carey Act has been the requirement that the Secretary of the Interior should approve the map of the lands sought to be irrigated before it could be segregated from the public domain. The operation of that provision has been that as soon

as a State contemplated asking for the segregation of a body of land private parties with speculative tendencies would file homestead claims upon the same, desiring thereby to avail themselves of the improvements contemplated by the State. In order to prevent such locations this bill provides that upon the filing in the local land office by the governor of an application for the temporary segregation of the tract of land which the State proposes to reclaim immediately, without the approval of anyone, the land sought to be reclaimed shall be withdrawn from private entry for the period of six months, and if the State follows up the application the land shall be withdrawn from entry during the construction of the works necessary to reclaim the land.

The Carey Act in direct terms requires the State to get the money with which to reclaim the land from the sale of water rights to settlers. The laws of the State of Colorado do not recognize water rights in any canal or reservoir company. It treats them simply as common carriers and entitled to reasonable remuneration for carrying the water. It has made the selling of water rights by the owners of reservoirs and irrigating companies a felony. The State therefore could not do what its own laws prohibit others from doing.

The Carey Act adopts as its definition of arid lands, desert lands, and the Interior Department has construed that to mean that if any kind of tree or shrub grows on land it is not desert land. In the arid region there are several species of trees that grow upon land which can not produce agricultural crops without irrigation. The mesquite wood and the grease wood are low bushes that will grow on absolutely desert land. This bill defines arid lands to be those which will generally produce agricultural crops only by artificial irrigation, which in our judgment and in the judgment of the Interior Department is a much better definition.

This bill gives the period of ten years after the approval of the maps and plans by the Secretary of the Interior within which to cause the tract of land applied for to be reclaimed. Under the present law there is but five years' more time within which a State can avail itself of the Carey Act. The work necessary to be done in order to reclaim large tracts of land is very great. It involves the construction of enormous reservoirs for the storage of water, and for the construction of large canals to conduct that water to the land sought to be reclaimed. As hundreds of thousands of dollars will have to be spent in each of these enterprises, and as the selection of sites for reservoirs, the drafting of plans, and the approval of the officers of the Government must necessarily be slow, it is deemed that ten years is not too long a time within which to produce reclamation of the lands. This bill, covering substantially the provisions of the Carey Act, and adding a number of provisions, repeals the Carey Act and amendment thereto, but contains a saving clause in favor of those States that have initiated proceedings under the same, and permits them to perfect their rights under that law.

There has been consultation held with the State engineers of most of the arid-land States, and they have approved the general features of this bill.

It appears to your committee that the time has come when it is necessary that the National Government shall pursue one of two policies with respect to the arid lands. The present land laws of the United States are inapplicable to the settlement of arid lands. When the general land laws were enacted they were intended for the lands that received sufficient precipitation of water to produce agricultural crops. The march of population westward had not proceeded as far as that

large domain called the American Desert, and there was no necessity of even considering the mode of tilling those lands. The tillable lands lying east of the arid region have nearly all been settled. The development of the arid States has been stopped by the fact that the homestead laws can not be utilized by locations upon that land. The procedure which is described in the homestead laws is not applicable to arid lands.

The man in the parts of the United States where rainfall exists in sufficient quantities to raise crops has a right under the present laws to locate 160 acres of land, build his home thereon, cultivate it, and be independent; but the man who goes out to the arid region, locates his quarter section, builds his house, and plows the soil, can not ordinarily raise a sprig of grass or a bushel of grain. The result is he must abandon his land and lose all of the improvements thereon. Something must be done to relieve this situation, for the inevitable consequence is that the agricultural resources of all the Western States are now being retarded and no development takes place because these lands are without the possibility of anyone cultivating them. The farmer who locates a homestead in an arid region must bring water to his land. Inasmuch as all of the land that lies contiguous to the streams has been taken up, he must lead his water for miles and miles in order to get it onto his land. That means an expenditure of money in constructing a canal for that purpose, and that makes it impracticable and too expensive for him to undertake. It involves an expenditure of at least a hundred times what the land is worth. That is the condition of the general land laws of the United States as applicable to the arid region. It means no development can take place; it means the development of that country will be stopped just as thoroughly as if there were a statute providing that no settlement could be made upon the public domain in those States.

It seems to your committee that one of two courses must be pursued by the United States. Either the National Government must undertake the reclamation of these lands by the construction of reservoirs and canals to impound and lead the water to the lands that are to be settled, or else this Government should transfer these lands to the States, so as to permit them to undertake the work of reclamation.

Of course the people of the arid-land States would much prefer that the work of reclamation should be undertaken by the National Government. They would like to see the National Government construct large reservoirs and canals there, but it is hardly within the range of possibility that the nation will undertake the same. The amount to be appropriated would be so large, the Representatives from the arid States are so few in number, that it can not be expected that the Government would ever enter upon the work of reclaiming these lands.

The arid lands are of no value to the United States; nothing can be raised upon the same; if they were offered for sale by the Government they would not bring 10 cents an acre; yet they are in fact the most fertile lands to be found anywhere in the world if water is only supplied for their cultivation.

It is not infrequent to find that 50 or 60 bushels of wheat per acre are raised on these arid lands when irrigated; yet without irrigation they are parched and burned and of no value.

By the reclamation of these lands great wealth will be added to the Union. That same wealth will supply taxes for the support of the State and National Governments and help to make this the greatest nation on the face of the earth.

MICHAEL J. FOGERTY.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 3081.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3081) granting an increase of pension to Michael J. Fogerty, have examined the same and all the evidence relating thereto and most respectfully report:

This bill proposes to increase from \$36 to \$50 per month the pension of Michael J. Fogerty, of Vincennes, Ind., who served in Company F, Twelfth United States Infantry, from August 16, 1862, to March 8, 1865, when honorably discharged on surgeon's certificate of disability, on account of amputation of left leg. The records also show that he received a gunshot wound right leg in service and line of duty.

He has been pensioned for the amputation of left leg at \$8 per month from date of discharge; \$15 from June 6, 1866; \$18 from June 4, 1872; \$24 from June 4, 1874; \$30 from March 3, 1883, and \$36 from August 4, 1886. A reissue was made in 1895 to allow gunshot wound of left thigh (new) to commence March 9, 1865, but he was allowed no additional rate of pension on account of that wound.

To entitle him to a higher rate of pension he must be totally disabled for manual labor and so disabled as to require the frequent and periodical aid and attendance of another person. That degree of disability from causes originating in service would entitle him to a pension of \$50 per month.

A certificate of his examination by a board of surgeons at Vincennes, Ind., on March 13, 1895, after describing condition of both wounds, concludes as follows:

It is the opinion of this board that this man is totally disabled, and that as a result of loss of left leg and injury to right leg, his condition is such as to require frequent and periodical care and attention.

In an affidavit executed April 1, 1898, Dr. L. M. Beckes, of Vincennes, Ind., says he has been claimant's family physician for four or five years, and at various times during that period he has examined and prescribed for him, and his condition has been and now is, that he is unable to

perform any kind of manual labor and is growing worse, and will continue to do so as long as he lives; that in affiant's opinion his condition now is such as to require a frequent attendant—in fact, an almost constant helper and attendant. The soldier has no property except personal belongings of the value of \$40, and no income. The case is meritorious and the soldier is entitled to a pension of \$50 per month.

The bill is therefore reported back with the recommendation that it pass.

VINCENNES, IND., *December 18, 1894.*

DEAR SIR: I inclose herewith a statement to the Military Committee of the House of Congress as to injuries and disabilities received while serving in Company F, Twelfth United States Infantry, during the war of the rebellion, and to most earnestly ask you to submit it to that committee for its action in securing an act of Congress for my relief.

In the statement I have stated my injuries fully, and I am advised by friends and parties of prominence to pursue this course to receive the benefits that my condition warrants and that I am worthy of.

I am drawing a pension of \$36 per month for the loss of my leg above the knee, and nothing at all for other injuries and disabilities received.

Considering my almost helpless condition to earn a support for myself and family, I feel that the amount of \$36 per month is very inadequate to the injuries received in the service, and my present condition, coupled with old age coming upon me, makes my case a serious one. I would therefore feel most grateful to you for any kind offices in my behalf toward securing an act of Congress for my relief.

I also inclose herewith for your consideration a letter from Mr. Royal E. Purcell, postmaster of this city, which will explain itself. I can also furnish a number of indorsements from responsible and prominent citizens of Vincennes as to my condition and as to the worthy claim I present.

If you will kindly get my claim before the committee at the earliest practicable time and give any aid to its favorable consideration, I will duly appreciate your efforts.

Should further record or evidence be necessary to prosecute the matter and I can be advised it will receive my prompt attention.

Trusting that I am not presuming too much on your time and kindness, and that my case may receive prompt and favorable action, I remain, very respectfully,

MICHAEL J. FOGERTY.

Hon. JOHN L. BRETZ, M. C.,
Washington, D. C.

P. S.—Will you kindly advise me when the matter is presented to the committee, and advise me of any necessary steps I can take toward the early adjudication of the matter?

VINCENNES, IND., *December 18, 1894.*

MY DEAR SIR: Accompanying this letter is a statement of Michael J. Fogarty to the military committee of the House of Representatives, asking for additional relief on account of disabilities incurred in the service of the United States. I personally know Mr. Fogarty, and am fully convinced that his statements in this behalf are correct, and I sincerely hope that he may obtain the relief asked for. Any aid you can give him will be most worthily bestowed.

Yours, truly,

ROYAL E. PURCELL.

Hon. JOHN L. BRETZ,
Washington, D. C.

STATE OF INDIANA, *County of Knox, ss:*

In the matter of Michael J. Fogerty, Company F, Twelfth United States Infantry.

On this 17th day of March, A. D. 1898, personally appeared before me, a notary public in and for the aforesaid county, duly authorized to administer oaths, Michael J. Fogerty, aged 56 years, a resident of Vincennes, in the County of Knox and State of Indiana, whose post-office address is Vincennes, Ind., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to

the aforesaid case as follows: I am the above-named claimant. I have personal property of the value of about \$40. I have no real estate whatever of any kind. I have no income of any kind except a pension which I draw from the Government.

MICHAEL J. FOGERTY.

STATE OF INDIANA, *County of Knox, ss:*

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me and that he is a credible person.

[SEAL.]

WILLIAM O. HUGHES,
Notary Public.

VINCENNES, IND., *April 1, 1898.*

To whom it may concern:

This is to certify that I am a regular practicing physician and have been for eleven years. I am, and have been for four or five years, the family physician of Mr. Michael J. Fogerty, of this city and State. At various times during this time I have examined and prescribed for said Michael J. Fogerty.

During this time and now his physical condition has been such that he is unable now, as well as in the past, to perform any kind of manual labor, and that in my opinion his disabilities are growing worse and will continue to do so as long as he lives.

In my opinion his condition now is such as to require a frequent attendant, and in fact an almost constant helper or attendant.

I further state that, in my opinion, said Fogerty's condition, or rather his disabilities, are the results of injuries said to have been received in the Army.

A physical examination of said Fogerty was made by me and in my opinion, based upon statements of said Fogerty, whom I have always found to be an honest and honorable man, and also upon the evidence found in the examination, Michael J. Fogerty is disabled because of injuries received while in the service and also because of the results of said injuries he is constantly growing worse.

In my opinion the injuries which caused his bad physical condition were loss of right leg just above the kneejoint, gunshot wound of left thigh, and results of use of an impure vaccine when he was vaccinated.

I further state that I have no interest in the prosecution of this case further than to see justice done a deserving soldier.

L. M. BECKES, M. D.

Subscribed and sworn to before me April 1, 1898.

[SEAL]

JONATHAN KEITH,
Notary Public.

VINCENNES, IND., *March 16, 1898.*

To whom it may concern:

This certifies that Michael J. Fogarty, of Vincennes, Ind., is an upright, industrious, honorable citizen of the strictest sobriety, and we take pleasure in testifying to his good character and worthiness as a neighbor.

Royal E. Purcell, ex-postmaster and publisher Daily Sun; H. W. Frund, superintendent Vincennes Electric Light and Power Company; W. H. Vollmer, treasurer Knox County, Ind.; Charles A. Weisert, deputy treasurer Knox County, Ind.; Geo. W. Shaw, judge Knox circuit court; Geo. E. Greene, mayor of Vincennes; Frank H. Hoffman, treasurer city of Vincennes, Ind.; Chas. Langel, clerk city of Vincennes, Ind.; T. H. Adams, publisher Commercial; Gerard Reiter, vice-president German National Bank; Geo. Fendrich, president Second National Bank and chief fire department; Tom Robertson, captain police; O. H. Cobb, attorney at law, Vincennes, Ind.; W. O. Hughes, attorney at law, Vincennes, Ind.; J. L. Buckles, ex-sheriff and attorney at law, Vincennes, Ind.; V. Schaenfeld, druggist; Wm. F. Recker, grocer; Geo. M. White, chief of police, Vincennes, Ind.; J. M. Thurgood, manager Western Union Telegraph Company; R. G. Moore, M. D.; Geo. Harris, merchant.

PAULINE ROBBINS.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 3624.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3624) granting a pension to Pauline Robbins, have examined the same and the evidence and respectfully report:

This bill proposes to pension at \$12 per month Pauline Robbins, of Sandusky, Wis., the permanently helpless and dependent daughter of Elisha Robbins, of Company I, One hundred and eighty-fourth New York Volunteer Infantry. This soldier enlisted September 5, 1864, and died in the service June 15, 1865, from disabilities contracted in the service and in line of duty. His widow, the mother of this claimant, filed and established a claim under the general law, and was pensioned as such widow until her death, in February, 1879.

Claimant was over 16 years of age at date of her father's death, and so has not and never had title to pension under any existing law.

The evidence filed with this committee, however, shows that she has congenital club feet, the feet being turned in and upward, so that if she could walk at all it must be on the top of her feet. She has not walked, however, since childhood, if she ever did. Witnesses testify that they have known her ever since she was 12 years of age, and that she could not walk then and has not been able to at any time since. She has also disease of spine and chorea (St. Vitus's dance).

It is most thoroughly and satisfactorily shown that from a time antecedent to her arrival at the age of 16 years she has been totally and permanently helpless. She is now over 60 years of age and has no property, income, or means of support, and is and for many years has been supported by her sister's husband.

As this child was dependent on the soldier, and he died in the service from disabilities incurred therein, and the mother is dead, and the child was thus deprived of her only support, the bill is reported back with the recommendation that it pass when amended as follows:

In line 5, after the word "the," insert the words "dependent and."

Strike out all of lines 9, 10, and 11.

Amend the title so it will read: "A bill granting a pension to Pauline Robbins."

STATE OF WISCONSIN, *County of Sauk, ss:*

In the matter of application for pension of Pauline Robbins, daughter of Elisha Robbins, private in Company I, ——— Regiment New York Volunteer Infantry, in the war of the rebellion, personally came before me, a notary public in and for said State and county, Dr. A. T. Corliss, who, being by me duly sworn, says, as follows, to wit:

My age is 29; am a graduate of Rush Medical College; since 1894 a resident of Loganville, Wis., and that on the 3d day of April, 1897, I examined the above-named applicant for pension as to her physical and mental condition. I found her suffering with a severe form of chorea (St. Vitus dance), which has existed since early childhood, rendering her entirely helpless, being unable to dress or feed herself because of constant irregular clonic contractions of muscles of face, eyelids, eyes, hands, arms, feet, and legs; is also unable to walk, not only because of constant twitching of feet and legs, but also on account of congenital clubfeet, the same being turned inward and inside upward, so if she were able to walk would do so upon outside of foot. There is also a high grade of atrophy of muscles of entire body and especially of feet, legs, hands, and arms. She also suffers with a severe grade of lateral curvature of the spine, and consequently one hip is raised much higher than the other. Speech is an incoherent jumble, so that only those who are very familiar with her can understand her at all. Heart's action is tumultuous and irregular; am able to detect a murmur at apex occurring with first sound of heart. Her mental condition is fair.

Her disabled condition is without a doubt permanent, having existed over forty years. Am a practicing physician and surgeon at Loganville, Wis., and vicinity, and am not interested in this claim or its prosecution.

A. T. CORLISS, M. D.

Subscribed and sworn to before me this 7th day of April, 1897, and I further certify that affiant is a practicing physician and surgeon of good standing in his profession, and a reliable witness, and that I am not interested in the prosecution of this case.

[SEAL.]

S. N. KINSLEY,
Notary Public, Sauk County, Wis.

STATE OF WISCONSIN, *County of Sauk, ss:*

George M. Preston, being duly sworn, says: His age is 52 years. He resides at Sandusky, in the county of Sauk, in the State of Wisconsin, and that his post-office address is the same as his residence. That he is a farmer, has a family, and that Miss Pauline Robbins, aged 60 years, is now and has been for the last past twenty-two years or more a member of his family; that she is a sister of his wife and a daughter of Elisha Robbins, who was private in Company I, One hundred and eighty-fourth Regiment of New York Volunteer Infantry, and served in said regiment in the war of the rebellion from the time of his enlistment in 1864 till his death, which occurred at Hampton Glen Hospital, Fortress Monroe, of chronic diarrhea June 15, 1865; that his widow, Sarah L. Robbins, the mother of said Pauline Robbins, was a pensioner during her widowhood till her death, under pension certificate No. 72622.

That said Pauline Robbins has been entirely unable for the last forty years to my knowledge to earn a support or any part of a support for herself, from disease of the spine, almost total loss of the control of the lower limbs of her body; inability to control the movements of her hands sufficiently to successfully do any kind of work, except a little knitting, and had at that time and ever since to be cared for by others as would be necessary to care for a child unable to walk; that said disability has continuously existed since that time, with some increase of the degree of her helplessness, and still exists, and as affiant verily believes is permanent in its character; that affiant for the last past eighteen years has provided for and supported said invalid as a member of his family; that she has no means of support, but is entirely dependent on others for almost constant care and support; and he also has aided largely in her support for the last forty years prior to the eighteen years mentioned; that said soldier was a poor man, and left no property at the time of his death; that said Pauline lived with, and as one of the family of said Elisha Robbins, from my first knowledge of the family till his death in 1865, and was claimed to be and was recognized as his child by him; and I have charge of the family records of said Elisha Robbins in which is recorded her birth as occurring on March 3, 1837.

Dated April 3, 1897.

GEORGE M. PRESTON.

Subscribed and sworn to before me this 3d day of April, 1897; and I further certify that affiant is a credible person and entitled to belief, and that I am not interested in the prosecution of this claim.

[SEAL.]

S. N. KINSLEY,
Notary Public, Sauk County, Wis.

STATE OF WISCONSIN, *County of Sauk, ss:*

In the matter of the application for pension of Pauline Robbins, daughter of Elisha Robbins, private in Company I, One hundred and eighty-fourth Regiment New York Volunteer Infantry, in the war of the rebellion, personally came before me, a notary public in and for said State and county, Wealthy A. Ball, a resident of the town of Excelsior, in said county, and whose post-office address is Ableman, Sauk County, Wis., who, being duly sworn, says her age is 77 years; have known said applicant about forty-five years, since the year 1852, and know she lived with said Elisha Robbins and her mother, Sarah L. Robbins, who claimed to be husband and wife, who recognized each other as bearing that relation, and recognized said Pauline as their daughter, and that they were all so recognized by their neighbors and the community where they resided. They then lived in the town of Palermo, Oswego County, N. Y. I resided near them. I was quite well acquainted with the Robbins family for forty years.

The first time I saw her, in 1852, she was entirely unable to walk, and she has never since that time been able to walk. She had at that time but partial use of her hands, and now can not use her feet or her hands. At time of his death said Elisha Robbins was a poor man and, if any, left but little means for the support of his widow and said helpless child; and they were left dependent and without much means of support. Said Pauline Robbins is so helpless that she is full as much care to her friends, wherever she lives or happens to be, as a child, and even more so, and I have no doubt such helplessness is permanent in degree and character and is slowly on the increase. I state this from knowledge. I have no interest in this claim or in its prosecution.

WEALTHY A. BALL.

Subscribed and sworn to before me this 14th day of April, 1897; and I further certify that affiant is of good repute and entitled to belief, and that I have no interest in this claim or in its prosecution.

[SEAL.]

S. N. KINSLEY,
Notary Public, Sauk County, Wis.

Also personally appeared Harriet Druse, resident of the town of Excelsior, Sauk County, Wis., whose post-office address is Ableman, Sauk County, Wis., who, being duly sworn, says: I am 41 years of age; I lived neighbor to said Pauline Robbins and family in Oswego County, N. Y., over twenty-five years, and remember her condition since I was old enough to remember well. Have often visited her since I left New York, and know of my own knowledge that such condition is correctly stated and portrayed in the foregoing statement made by Wealthy Ball, which statement I have heard read twice.

I am not interested in this claim.

HARRIET C. DRUSE.

Sworn and subscribed before me April 14, 1897.

[SEAL.]

S. N. KINSLEY,
*Notary Public, Sauk County, Wis.*STATE OF NEW YORK, *County of Oswego, ss:*

In the matter of claim for pension of Pauline Robbins, daughter of Elisha Robbins, a member of Company I of the One hundred and eighty-fourth Regiment New York Volunteers, in the war of the rebellion, personally appeared before me, a justice of the peace in and for said State and county, Ermina Remington, aged 61 years, who resides at Mexico, Oswego County, N. Y., and whose post-office address is Mexico, N. Y., and who, being by me duly sworn, says in relation to said claim as follows:

That she is well acquainted with Pauline Robbins and has been so acquainted since the said Pauline was 12 years of age; that deponent knew her physical condition at that time, which was that, in getting along the said Pauline would hitch along in a chair, or sitting on the floor or ground would hitch along, having no use of her limbs; that she had but little use of her arms and hands—seeming to have no control over them, they would shake and jerk; that deponent knew of this condition continuing until 1885, when the said Pauline moved to a Western State; that deponent further says that the said Pauline during any and all the time deponent saw and knew her was absolutely unable to in any manner support herself or contribute to any part of her support; that deponent has no interest in the above-mentioned claim for pension, either direct or indirect.

ERMINA REMINGTON.

Sworn to before me this 13th day of July, 1897.

W. M. RICHARDSON,
Justice of the Peace.

STATE OF NEW YORK, *Oswego County*, ss:

Hannah I. Adams, being duly sworn, says: That she is a sister of the above affiant, and of the age of 63 years; that deponent is well acquainted with the above-mentioned Pauline Robbins, and knew her at all the times mentioned in the above affidavit, and all the conditions and disabilities of the said Pauline described in above affidavit are true and known to deponent; that deponent's knowledge of the facts are derived from having lived in the same house and being at the time said Pauline was 12 to 14 years of age a daily observer of her condition, as was also the above affiant; that deponent has no interest, either direct or indirect, in the above claim.

HANNAH I. ADAMS.

Subscribed and sworn to before me this 13th day of July, 1897, and I certify that the above affiants, Ermina Remington and Hannah I. Adams, are known to me to be respectable and entitled to credit, and that I have no interest in the prosecution of the above pension claim.

W. M. RICHARDSON,
Justice of the Peace.

(Certificate filed for general reference.)

STATE OF NEW YORK, *County of Oswego*, ss:

In the matter of the claim for pension by Pauline Robbins.

Charles C. Loomis, being duly sworn, says: That he is 60 years of age, and is well acquainted with the Pauline Robbins mentioned in the affidavits of Ermina Remington and Hannah I. Adams above; that deponent knew the said Pauline when she was 12 or 13 years of age; that she had no use of her limbs, having to hitch along in a chair or on the floor or ground, and would shake and jerk and was badly deformed—bent over; that her condition continued as long as deponent was a daily observer of her and until deponent moved to a Western State in 1866; that deponent's knowledge of the facts are derived from an almost daily observance and living in close neighborhood with her; that in 1876 deponent again saw the said Pauline, and her condition was then the same, and not at any of the times mentioned was she able to support herself or contribute to any part of her support; that deponent has no interest, either direct or indirect, in the claim for pension above mentioned.

CHARLES C. LOOMIS.

Subscribed and sworn to before me this 13th day of July, 1897, and I certify that affiant is respectable and entitled to credit, and that I have no interest in the prosecution of the above-mentioned pension claim.

W. M. RICHARDSON,
Justice of the Peace.

(Certificate filed.)

STATE OF WISCONSIN, *County of Sauk*, ss.

On this 3d day of April, 1897, personally appeared before me, a notary public in and for said State and county, Pauline Robbins, who, being duly sworn according to law, makes the following declaration in order to obtain a pension from the United States:

That she is the legitimate child of Elisha Robbins, who was a private in Company I, One hundred and eighty-fourth Regiment New York Volunteer Infantry, and served in said regiment in the war of the rebellion more than ninety days, to wit, from the time of his enlistment in 1864 till his death, which occurred at Hampton Glen Hospital, Fortress Monroe, of chronic diarrhea, June 15, 1865; that his widow, mother of this applicant, was a pensioner of the United States during her widowhood till her death, under pension certificate No. 72622; that this applicant is now 60 years of age, and is now and has been for the last past fifty years unable to earn a support for herself; that her said father was married under the name of Elisha Robbins to Sarah L. Hutchins, mother of this affiant; that affiant was born March 3, 1837, at Palermo, N. Y.; that affiant wishes no attorney in this case, and that her residence and post-office address is Sandusky, Sauk County, Wis.

PAULINE ROBBINS.

Witnesses:

E. E. KINSLEY.

A. E. KINSLEY.

Name of applicant written, at her request, by me, she being unable to control her hand sufficiently to even make her mark.

E. E. KINSLEY.

Also personally appeared E. E. Kinsley and A. E. Kinsley, of Loganville, Wis., persons whom I certify to be respectable and entitled to credit, and who, being by me duly sworn, say that the name of Pauline Robbins was placed at the foot of the foregoing declaration by E. E. Kinsley, one of the subscribing witnesses, at the request of the applicant after the same had been read to and fully explained to her; that they have every reason to believe and do believe from their acquaintance with her that she is the identical person she claims to be.

E. E. KINSLEY.
A. E. KINSLEY.

STATE OF WISCONSIN, *County of Sauk, ss.*

And also personally appeared George M. Preston, being duly sworn, says the name of Pauline Robbins, the above-named applicant, was placed at the foot of the foregoing declaration in his presence and at the request of said Pauline Robbins; and further says that from his acquaintance with said applicant continuously for the last forty years he has no doubt she is the person she represents herself to be.

GEO. M. PRESTON.

Sworn and subscribed to before me this 3d day of April, A. D. 1897; and I hereby certify that the contents of the above and foregoing declarations and affidavits were fully made known and explained to affiants before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

S. N. KINSLEY,
Notary Public, Sauk County, Wis.



The following is a list of the names of the persons who have been admitted to the membership of the Society since the last meeting. The names are given in alphabetical order, and the date of admission is given in parentheses.

Mr. J. H. Smith (Jan. 1, 1870)
Mr. W. B. Jones (Jan. 1, 1870)
Mr. C. D. Brown (Jan. 1, 1870)
Mr. E. F. Green (Jan. 1, 1870)
Mr. G. H. White (Jan. 1, 1870)

Mr. I. J. Black (Jan. 1, 1870)
Mr. K. L. Grey (Jan. 1, 1870)
Mr. M. N. Blue (Jan. 1, 1870)
Mr. O. P. Yellow (Jan. 1, 1870)
Mr. Q. R. Purple (Jan. 1, 1870)

Mr. S. T. Red (Jan. 1, 1870)
Mr. U. V. Orange (Jan. 1, 1870)
Mr. W. X. Green (Jan. 1, 1870)
Mr. Y. Z. Blue (Jan. 1, 1870)
Mr. A. B. Yellow (Jan. 1, 1870)

Mr. C. D. Purple (Jan. 1, 1870)
Mr. E. F. Red (Jan. 1, 1870)
Mr. G. H. Orange (Jan. 1, 1870)
Mr. I. J. Green (Jan. 1, 1870)
Mr. K. L. Blue (Jan. 1, 1870)

Mr. M. N. Yellow (Jan. 1, 1870)
Mr. O. P. Purple (Jan. 1, 1870)
Mr. Q. R. Red (Jan. 1, 1870)
Mr. S. T. Orange (Jan. 1, 1870)
Mr. U. V. Green (Jan. 1, 1870)

Mr. W. X. Blue (Jan. 1, 1870)
Mr. Y. Z. Yellow (Jan. 1, 1870)
Mr. A. B. Purple (Jan. 1, 1870)
Mr. C. D. Red (Jan. 1, 1870)
Mr. E. F. Orange (Jan. 1, 1870)

Mr. G. H. Green (Jan. 1, 1870)
Mr. I. J. Blue (Jan. 1, 1870)
Mr. K. L. Yellow (Jan. 1, 1870)
Mr. M. N. Purple (Jan. 1, 1870)
Mr. O. P. Red (Jan. 1, 1870)

Mr. Q. R. Orange (Jan. 1, 1870)
Mr. S. T. Green (Jan. 1, 1870)
Mr. U. V. Blue (Jan. 1, 1870)
Mr. W. X. Yellow (Jan. 1, 1870)
Mr. Y. Z. Purple (Jan. 1, 1870)

JOHN N. WILEY.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9765.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9765) increasing the pension of John N. Wiley, have examined the same and all the evidence relating thereto and respectfully report:

This bill proposes to increase from \$17 to \$50 per month the pension of John N. Wiley, of Boone, Iowa, who served from August 9, 1862, to June 21, 1865, as private, Company G, Sixty-third Indiana Volunteer Infantry, when he was honorably discharged. He filed and established a claim under the general law for injury and resulting loss of sight of left eye, chronic diarrhea and resulting piles, and is now pensioned at \$17 per month for said disabilities. In January, 1894, increase was claimed and rejected. An appeal was taken to the Secretary of the Interior, and, as usual, the question being considered entirely a medical one, the case was referred back for the opinion of the medical referee of the Pension Office who had rejected it as to the correctness of his action of rejection, and, as usual, he sustained himself, and was sustained by the Secretary, it being held by the medical referee that the abscesses, which were claimed to be results of chronic diarrhea were not results.

May 8, 1897, another claim for increase was filed, based on pensioned causes and resulting ulceration of stomach and bowels. This was rejected in December, 1897. "No increase; lumbar abscess not accepted as a result."

In an affidavit dated December 27, 1893, D. N. De Tar, M. D., says:

John Wiley is now permanently and totally unable to perform manual labor, and requires the aid and attendance of another to attend to the commonest wants of nature, to dress and undress, and get to the table, etc. This disability or inability to help himself is directly the result of chronic diarrhea, which he has had since my acquaintance with him. It first led, in 1884 or 1885, to perforation of bowel and localized peritonitis, with resulting abscesses which burst into bowel, resulting in partial recovery. This fall, subsequent to another severe attack of the diarrhea, another

abscess formed in right hypochondrium and iliac region. This extended down over external anterior surface of femur, and now has five or six fistulous openings from same. In my judgment the condition will last through life.

Dr. De Tar, in another affidavit, dated May 11, 1895, says:

The cicatrices from lower ribs to knee show the location of various abscesses; fecal extravasation has been the rule, portions of food frequently coming away in the pus discharged. In my judgment the condition is directly a result of the chronic diarrhea he has had.

Dr. S. O. Stockslager, in an affidavit dated May 9, 1895, says:

Find an opening on right side above ileum, from which pensioner says fecal matter is discharged. I find evidence of the fact, and believe statements are correct. * * * I believe the opening in the right side is the result of ulceration of bowels.

Dr. H. G. Ensign, in an affidavit dated May 8, 1895, says:

In November, 1893, I was called to treat him. Found openings on right side of upper lumbar region and on side at a level of eleventh rib, with a number of scars of former openings. The two described above were discharging pus freely at that time. To-day I examined him in my office, found one sinus on right side discharging pus and several scars on outer aspect of right thigh, where he says abscesses have been lanced. Applicant states that cherry stones, tomato seeds, etc., eaten by him, occasionally come out through the openings referred to.

In 1891, when examined by a board, claimant stated:

Have had running sore for six years on right side. Physician says result of diarrhea.

March 7, 1894, when examined, claimant said to the examining surgeon:

Had abscess of intestines nine years ago in May. Was unable to get from my bed till fall and never been able to do any manual labor since.

The examining surgeon said:

Had abscess from intestines as claimed. I find two cicatrices, adherent, not depressed. * * * I also find abscess on right hip with cicatrices. Find applicant much emaciated and unable to do anything without assistance. Can not arise from bed and attend to his natural wants without assistance; must have constant attendance.

At another examination, April 23, 1894, he stated:

In 1885 had inflammation of bowels, which resulted in an abscess which has been gathering and had to be lanced at intervals ever since.

The examining surgeon says:

The diarrhea is present only at intervals, but at present the entire abdomen is tympanitic, and the left hypochondriac region is sensitive to pressure and has a feeling of fluctuation as if there was pus around brim of pelvis. The left thigh is marked with cicatrices. These scars were evidently made by surgeon in opening pus cavities. One is not healed. He gives a history of appendicitis in May, 1885, and these abscesses commenced to break, and were lanced last January. Undoubtedly there is a connection between these abscesses and the peritoneal cavity, as oat hulls and small seeds from berries have been washed out of the abscess cavity by irrigation, and the tenderness is continuous from the abdomen down the thigh along the field where the scars are.

The examining board at Boone, Iowa, July 7, 1897, said:

Fifteen or more cicatrices on right side, back, and thigh, connecting with tumor arising from the ascending colon. The tumor contains pus, and is caused by ulceration and perforation of ascending colon.

Examining board at same place December 1, 1897, said:

Chronic diarrhea; skin normal; epigastric region tender, also over ascending colon; stomach enlarged and flabby; spleen enlarged; liver enlarged; fistulous opening into bowel immediately under last rib and 9 inches from spinous process; chronic diarrhea and abscesses. These disabilities disable the claimant totally and render frequent aid and attendance necessary.

The board at Nevada, Iowa, January 19, 1898, said:

He has to wear an abdominal supporter all the time. He has to have another party dress and undress his feet, as his obesity and weakness prevent his reaching his feet. All through his bowels are masses, adherent and the size of a fist and larger, the result of inflammation, which has in several places ulcerated through the abdominal wall and in numerous, burrowed along the fascia and broken through over hips, thighs, and in two instances in the right popliteal space. One of these fistulæ is now open and discharging fecal matter just over the crest of right ilium. Applicant states his weight until 1893 was from 125 in summer to 135 in winter, when this fistula began opening. Since then he weighs from 215 to 225 pounds, which has totally incapacitated him from manual labor. His hands are soft, muscles flabby, heart's action weak. Great debility. The right side of body and right leg debilitated. His hemorrhoids and ulceration of bowels, so painful and troublesome, also bronchitis and loss of sight of left eye, and requiring assistance to dress and undress his feet, unite to place him entitled to grade rate, \$50 per month. His right leg has become so weak that for four years he has been obliged to use a crutch continually. This fact is verified by Judge Stevens, of Boone. This case is unique, but this board credit the story of applicant, as we can find no other plausible. He seems entitled to credit for veracity.

The claim was referred to the medical referee again in March, 1898, and on the 23d of that month he returned the following slip:

After a careful consideration of the papers in this case I am of the opinion that the present rate of seventeen-eighteenths is commensurate with the degree of disability arising from pensioned causes. His present almost helpless condition is due, in great measure, to disease of heart, obesity, and multiple abscesses.

That this soldier has a disability that entitles him to a pension of \$50 per month can not be doubted. That his present condition is the result of the disabilities adjudged to be of service origin is not open to serious or reasonable doubt.

Cause of service origin found and conceded; effect found and conceded; no other cause found or suspected. What caused disease of heart, obesity, and these multiple abscesses? Does the medical referee suggest, dare he, as a medical man, state or suggest that they are not the result of a progressive chronic diarrhea complicated with piles?

The bill is reported back with the recommendation that it pass when amended as follows:

In line 4, strike out "increase the pension," and insert in lieu thereof "place the name."

In line 6, strike out "to" and insert in lieu thereof "on the pension roll and pay him a pension at the rate of."

Add, at the end of line 6, the words: "in lieu of the pension he now receives."

MARY C. GARDHEFFNER.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 9322.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9322) granting an increase of pension to Mary C. Gardheffner, have examined the same and the evidence and report:

This bill proposes to increase from \$8 to \$12 per month the pension of Mary C. Gardheffner, of Mishawaka, Ind., the widow of William B. Gardheffner, who served under the name of James W. White, in Company C, Fourth West Virginia Infantry, from July 25, 1863, to March 9, 1864, and in Company A, Fourteenth Pennsylvania Volunteer Infantry, from March 17, 1864, to February 27, 1865, when he was discharged on surgeon's certificate of disability on account of amputation of left arm from gunshot fracture of humerus. The soldier elects to be discharged. No other cause of disability is known to exist. The records show that he was treated in hospital during the said service for gunshot wound of left arm, arm amputated above elbow, wounded at White Post December 4, 1864.

Soldier filed and established a claim for pension for the loss of that arm, and was pensioned from date of discharge at the rates provided by law for that degree of disability until December 24, 1891, when he died. At the time of his death he was receiving a pension at the rate of \$45 per month. Soldier's death is shown to have been due to disease of heart. Widow filed a claim under the act of June 27, 1890, and is pensioned under that act at \$8 per month. She filed a claim November 17, 1894, under the general law, but it was rejected January 17, 1896, on the ground that death resulted from disease of heart, not due to cause which has been legally accepted (loss of left arm above the elbow).

T. P. Camelon, M. D., in an affidavit dated January 20, 1892, testified as follows:

I first began to treat him in January, 1890. That his condition then was very bad, consisting of constant severe pain (neuralgic) in the stump of his left arm. This constantly increased, the neuralgia (from stump) being reflected to all parts of his

body, and finally resulted in heart complications which was the cause of his death on the 24th day of December, 1891. During this time I have been in constant attendance, making from three to twelve visits per week.

Claimant is 42 years of age; was married to soldier November 7, 1876, and the fact that she is a pensioner under the act of June 27, 1890, indicates her financial status.

It is evident that death was indirect result of wounds received in the service, and the bill is, therefore, reported back with the recommendation that it pass, when amended as follows:

In line 7, after the word "pension," insert "at the rate."



MARY A. WATTS.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6064.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6064) granting a pension to Mary A. Watts, have examined the same and the evidence relating thereto and report:

This bill, as amended, proposes to pension at \$12 per month, subject to the provisions and limitations of the pension laws, Mary A. Watts, of Collinsville, Ala., the widow of Little B. Watts, late a private in Company G, First Independent Alabama Vidette Cavalry.

Soldier served from March 20 to June 16, 1864 (eighty-nine days) and was honorably discharged.

This claimant filed a declaration under the act of June 27, 1890, alleging that soldier died October 20, 1886, and that she is dependent.

The claim was rejected, of course, on the ground that soldier did not serve ninety days.

There is no evidence of the exact date of soldier's death aside from claimant's allegation, but there has been evidence filed with this committee which seems to establish that soldier is dead and claimant is his widow. It is also shown that she is poor, is totally disabled by inflammatory rheumatism, and has a son who was paralyzed when 12 years of age. Claimant is 65 years of age, and was married to the soldier February 14, 1853.

The case is exceptional and meritorious. The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 4, strike out "Mrs."; also strike out all after the word "roll," in line 6, and insert in lieu thereof the following: "Subject to the limitations and provisions of the pension laws, and pay her a pension at the rate of twelve dollars per month."

Amend the title so as to read: "A bill granting a pension to Mary A. Watts."

COLLINSVILLE, ALA., *March 14, 1896.*

THE STATE OF ALABAMA, *Dekalb County:*

Personally appeared before me, N. W. Ward, a justice of the peace in and for said county, John C. Norwood, who, being duly sworn, says that he is personally acquainted with Mrs. Mary A. Watts, and that she is the widow of Little B. Watts, deceased; and that she is a woman of good moral character, and that she has been confined to her room for several years with rheumatism, and is in needy circumstances.

JOHN C. NORWOOD.

Sworn to and subscribed before me this March 14, 1896.

N. W. WARD, *Justice of the Peace.*

COLLINSVILLE, ALA., *March 14, 1896.*

THE STATE OF ALABAMA, *Dekalb County:*

Personally appeared before me, N. W. Ward, a justice of the peace in and for said county, James H. Collins, who, being duly sworn, says that he is personally acquainted with Mrs. Mary A. Watts, and that she is the widow of Little B. Watts, deceased; and that she is a woman of good moral character, and has been confined to her room with rheumatism for several years, and is in needy circumstances.

J. H. COLLINS.

Sworn to and subscribed before me this March 14, 1896.

N. W. WARD, *Justice of the Peace.*

COLLINSVILLE, ALA., *March 13, 1896.*

This is to certify that I have been treating Mrs. Mary A. Watts, of this place, at intervals for the last ten or twelve years, and she is in a perfectly helpless condition from inflammatory rheumatism.

H. P. McWHORTER, M. D.

Sworn to and subscribed before me this March 1, 1896.

N. W. WARD, *Justice of the Peace.*

COLLINSVILLE, DEKALB COUNTY, ALA., *April 14, 1896.*

DEAR SIR: I have been requested to write you in regard to myself. I am the son of Little B. Watts, and I was paralyzed when I was 12 years old. I have to walk on two crutches, and I can not do any kind of work. I am in a bad shape and have a hard way making a living.

Is there any way by which I can draw a pension? If there is, will you be so kind as to write me, and I will gladly thank you for same?

Hoping to hear from you, I remain,

Yours, most respectfully,

JOHN WATTS,

Son of Little B. Watts, Company G, First Alabama Vidette Cavalry.

Hon. JOSEPH WHEELER, M. C.,

Washington, D. C.

JACOB N. ATHERTON.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 5069.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5069) granting a pension to Jacob N. Atherton, have examined the same and the evidence relating thereto and respectfully report:

This bill as amended proposes to pension at \$24 per month Jacob N. Atherton, of Mansfield, Ohio, who was enrolled and mustered into the service in the United States Signal Corps on the 27th day of February, 1864, and was discharged August 11, 1865, his services being no longer required.

The medical records show that he was admitted to the general hospital at Parkersburg, W. Va., July 7, 1864, suffering with acute diarrhea, and that he returned to duty September 25, 1864.

This claimant has not applied for a pension under the general law, but filed an application, under the act of June 27, 1890, on the 25th day of January, 1892, alleging pensionable disabilities from disease of eyes, chronic diarrhea, and rheumatism in the shoulders. This application was submitted for rejection October 9, 1893, approved for rejection by the legal reviewer October 21, 1893, and rejected by Thomas Featherstone, medical referee, October 25, 1893, on the ground that no ratable degree of disability was shown. With this adjudication your committee can not agree.

The claimant has filed his own affidavits, which are supported by the affidavit of Dr. J. C. Sanderson, M. D., Amos Foster, J. S. Pickering, C. W. Jelliff, William Slaybaugh, and also by the certificate of the examining board at Mansfield, Ohio. The members of the examining board made a personal examination, and as at least one of them resides in the same town with the soldier he evidently had some personal knowledge of the case aside from the examination. The other affidavits referred to are made by neighbors of the soldier who know whereof they speak. Dr. Sanderson says that he has been Atherton's family physician for twenty years, and that during that time he has treated

him for chronic diarrhea, rheumatism, and inflammation of the eyes; that the diarrhea has been of an aggravated type and has disabled the soldier from his ordinary labor much of the time. Dr. Sanderson further says that the soldier's eyesight is materially impaired and that he wears glasses and has difficulty in finding suitable ones, and that he is compelled to wear glasses suitable for a person twenty years older than the soldier.

Foster says that he knows the soldier to be afflicted with rheumatism, and that there have been days at a time when he could not raise his hands above his shoulders. He also says that the soldier wears glasses constantly, and that one eye is weaker than the other. He states that the soldier is afflicted with chronic diarrhea at times, and knows that he has been disabled for days at a time from performing any manual labor. J. S. Pickering and C. W. Jelliff state that the soldier's eyes are so affected that he requires glasses constantly suitable for a person 65 years of age, and that one eye requires a lens No. 11 and the other lens No. 8, and that they have fitted glasses to the soldier's eyes for five years or more. William Slaybaugh says that he knows the soldier to have been afflicted with rheumatism so as to be unable to work at times and for days at a time, and that he also knows the soldier to be afflicted at times with chronic diarrhea, and he also says that he knows the soldier's eyes are badly affected and that he constantly wears glasses. He has worked with the soldier for over four years. All say that the soldier is a bricklayer and a man of exemplary habits.

The examining board states that the soldier's skin is normal; general appearance of medium health; chest and lungs normal; heart weak, but otherwise normal; abdomen prominent and full, etc.; but they describe the diseased condition found in cases of chronic diarrhea. The board further says that there is no objective evidence of rheumatism save tenderness on pressure over the left shoulder and left hip. The board describes the condition of the eyes much as do the other witnesses. The board rates the soldier at six-eighteenths for disease of eyes, two-eighteenths for chronic diarrhea, and four-eighteenths for rheumatism.

Your committee is at a loss to understand why this soldier's application for a pension under the act of June 27, 1890, was rejected. He clearly suffered from disabilities that entitled him to a pension of \$12 per month under that act. He is now substantially blind, his condition growing worse all the time.

The bill is reported back with the recommendation that it pass when amended as follows:

After the word "roll," in line 4, insert the words "subject to the provisions and limitations of the pension laws."

After the word "pension," in line 6, insert the words "at the rate."

In line 6, strike out the word "thirty" and insert in lieu thereof the word "twenty-four."

ANN GIBBONS.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MIERS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 8266.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8266) granting an increase of pension to Ann Gibbons, have examined the same and all the evidence and respectfully report:

This bill proposes to increase from \$12 to \$20 per month the pension of Ann Gibbons, of 1806 Riggs place, Washington, D. C., the mother of John J. Gibbons, captain Company C, Sixty-second Illinois Volunteer Infantry, who enlisted February 1, 1862, and was honorably discharged with rank of captain March 6, 1866, after more than four years' service.

He died June 8, 1866, from disease incurred in service, leaving neither widow nor minor children, and the mother, this claimant, filed and established a claim under the general law as dependent mother, and was pensioned as dependent mother at \$12 per month. She filed a claim for reissue to give her the pension as mother of a captain, but that claim was rejected on the ground that the disability from which soldier died was incurred before he received a commission. That may be true, but the soldier, after incurring the disability, remained with his command until he reached the position of captain of his company. If he was sound and brave and devoted enough to remain at the front until after he was commissioned may it not be said that death was caused by service in the Army after he was commissioned?

Claimant is now 88 years of age and has no income or means of support except her pension.

In any event, this old mother, who lost her son by reason of army service and is now poor, should not be compelled to live on \$12 per month. The bill is reported back with the recommendation that it pass when amended as follows:

In line 4 strike out the words "increase the pension of Mrs." and insert in lieu thereof the words "place the name of."

In line 7, after the word "Infantry," insert the words "on the pension roll."

Amend the title so it will read: "A bill to increase the pension of Ann Gibbons."

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CHICAGO, ILL., U.S.A.
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JOEL H. HALLOWELL.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 1712.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1712) granting an increase of pension to Joel H. Hallowell, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$25 per month the pension of Joel H. Hallowell, of Covington, Ky.

This soldier enlisted September 17, 1861, as private in Company D, Sixth Pennsylvania Volunteer Cavalry, and served until July 3, 1865, when he was honorably discharged.

He is now pensioned under the act of June 27, 1890, at \$12 per month. In 1893 he was dropped from the rolls on the ground that he had no pensionable rate of disability, but abundant proof was soon thereafter filed showing that the soldier not only had a ratable degree of disability but that he was substantially totally disabled and needy, whereupon he was restored to the rolls.

His general-law claim, filed in 1889, does not seem to have been adjudicated. No reason for this neglect and failure to act is apparent.

The present pension under the act of June 27, 1890, was allowed for left varicocoele and rheumatism and resulting disease of the spine. It is therefore conceded that his spinal disease is the result of rheumatism. The evidence is abundant and conclusive that the soldier was well and an able-bodied man when he entered the service, and that by reason of exposure in the line of duty, and being left on the field over night exposed to the damp, he contracted and was treated for rheumatism many weeks when in the service. He also suffered a sunstroke while in the service and in the line of duty, and was treated in hospital for this. The proof shows that none of the soldier's disabilities are the result of vicious habits; that he is a man of good character and has led a correct life. The evidence also shows that he is poor. He was treated

for sunstroke in July, 1862, and for rheumatism in June, 1864. It appears that he was treated for sunstroke again in 1865.

The evidence is abundant and conclusive that the soldier's spinal and nervous troubles from which he now suffers are the result of disabilities incurred in the service, and the only question for your committee to determine is the extent of his present disabilities. The spinal trouble has produced either locomotor ataxia or something that closely resembles it, and while the soldier is able to move about he can not walk straight nor can he stand erect. He has but little control over his lower limbs. He has more or less trouble with his heart and is pale and very weak. His bladder is also seriously affected. The spinal trouble is progressive and it is evident that he will never recover. The soldier is about 55 years of age, has a family, and is without property or means of support. In 1892 the soldier was rated by the medical board at eight-eighteenths for rheumatism, four-eighteenths for varicocele, and six-eighteenths for disease of the heart. In 1893 the board found the soldier in such condition that they pronounced his disability permanent and total by reason of locomotor ataxia. As the disease from which the soldier suffers is progressive the bill will be amended so that the soldier may apply at the Pension Bureau for a further increase in case his disability increases and have relief there.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 4, after the word "roll," insert the words "subject to the provisions and limitations of the pension laws."

In line 5, after the word "Hallowell," insert the word "late."

From lines 6 and 7 strike out the words "in the war of the rebellion, now residing at Covington, Kentucky," and insert in lieu thereof the words "and pay him a pension."

Amend the title so as to read: "A bill granting an increase of pension to Joel H. Hallowell."



JAMES C. HERVEY.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. KERR, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 6841.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6841) granting an increase of pension to James C. Hervey, beg leave to submit the following report and recommend that said bill do pass with amendments.

This bill, as amended, proposes to increase from \$20 to \$30 per month the pension of James C. Hervey, of New Paris, Ohio, who served from July 30, 1862, to April 21, 1865, when mustered out with the rank of captain.

There is record evidence of nostalgia, chronic diarrhea, and chronic hepatitis.

He filed and established a claim under the general law and is now pensioned for injury of left side and leg, chronic diarrhea, and disease of liver at \$20 per month, total of rank as captain. Increase above the present rate has been twice denied on the ground that the degree of disability was in part due to declining years and other causes than that for which the soldier is pensioned.

At his last medical examination by a board, which was made December 23, 1896, he was rated six-eighteenths for injury of left side and leg, nine-eighteenths for chronic diarrhea, four-eighteenths for disease of liver, nine-eighteenths for piles, six-eighteenths for stomach, four-eighteenths vertigo, four-eighteenths bladder, and sixteen-eighteenths for disease of kidneys. He was then 68 years of age.

The statement of his family physician shows that "he is now a helpless invalid, requiring a constant nurse, being partially paralyzed in both legs, so that he can not walk without assistance, and is totally unfit for any labor or business in any form."

This statement of the family physician is corroborated to the fullest extent by the statements of others who know the facts.

The claimant's property consists of a small house and lot worth \$500, and he has no income except his pension, which does not support him.

In view of his physical condition, mainly of service origin, and his financial needs, your committee recommend a reasonable increase of pension.

The bill is therefore reported back with the recommendation that it pass, when amended as follows:

In lines 4 and 5 strike out the words "of the United States."

In line 5, after the word "of," strike out the word "captain;" and in the same line, after the word "late," insert the word "captain."

In line 7, after the word "cavalry," insert the words "and pay him a pension."

In same line strike out the word "seventy-two," and insert in lieu thereof the word "thirty."

At the end of line 8 add the following: "in lieu of the pension he now receives."

Amend the title so as to read: "A bill granting an increase of pension to James C. Hervey."

STATE OF OHIO, *Preble County*, ss:

We, the undersigned, resident ministers of New Paris, Ohio, in the matter of application for increase of pension of Capt. James C. Hervey, of New Paris, Ohio, as per House bill No. 6841, do hereby testify that the said Capt. James C. Hervey is a helpless invalid, requiring a constant nurse, and is totally disabled from any labor or business in any form. We further testify that we have no interest in the matter whatever only justice to a needy and worthy citizen and soldier.

(Rev.) I. W. LOWMAN.
S. K. SCOTT.
M. F. HAWLEY.

STATE OF OHIO, *Preble County*, ss:

We, the undersigned, resident physicians of New Paris, Ohio, do hereby testify on oath that Capt. James C. Hervey, of New Paris, Ohio, applicant for increase of pension, as per House bill No. 6841, is a helpless invalid, requiring a constant nurse, and is totally unfit for any labor or business in any form whatever. We further testify that we have no interest in the matter only justice to a needy and worthy citizen and soldier.

F. J. OWRY, M. D.

STATE OF OHIO, *Preble County*, ss:

In the matter of the application for increase of pension of Capt. James C. Hervey, of New Paris, Ohio, by special bill No. 6841, introduced January 18, 1898, by J. L. Brenner, M. C., I have to say that I have been the family physician of the said Capt. James C. Hervey for the past five years, and hereby testify, on oath, that his disabilities have increased to the extent that he is now a helpless invalid, requiring a constant nurse, being partially paralyzed in both legs so that he can not walk without assistance, and is totally unfit for any labor or business in any form.

I further testify that I have no interest in the matter only justice to a needy and worthy citizen and an old soldier.

LOUIS DUM, M. D.

STATE OF OHIO, *Preble County*, ss:

We, the undersigned citizens and soldiers, residents of New Paris, Ohio, in the matter of application for increase of pension, as per House bill 6841, do hereby testify on oath that the said Capt. James C. Hervey, late Company I, Sixty-third Indiana Volunteer Infantry, and Company A, Ninth Indiana Volunteer Cavalry, is a helpless invalid, requiring a constant nurse, and is totally disabled from any labor or business in any form. We further testify that we have no interest in the matter whatever, only justice to a needy and worthy citizen and soldier.

JOHN CAUGHER.
JOHN MILLS.
DAVIS D. OGDEN.
SAMUEL BEELMAN.
CALEB W. BENNETT.
WASHINGTON EDDY.
SAMUEL W. KESSLER.
JOHN T. HASELTINE.
THOMAS AULD.
M. H. PENCE.
EDGAR WHITAKER.
ADAM WIRTZ.

NEW PARIS, OHIO, *April 1, 1898.*

The above named signed in my presence, after each one becoming acquainted with its contents before signing same, and that they are respectable and entitled to credit, and they state they have no interest or concern in the matter; and I further state that I have no concern or interest in the matter.

[SEAL.]

PATRICK MCGREW,
Notary Public, Preble County, Ohio.

STATE OF OHIO, *Preble County, ss:*

In the matter of House bill No. 6841, I hereby testify that I have known the said Capt. James C. Hervey for many years, and that I am personally known to the fact that his condition is now a very helpless one indeed, requiring a constant nurse, and is totally unable to perform any manual labor or attend to any business whatever. I have no interest in this matter, only that I desire to see justice done a worthy and needy ex-Union soldier of the late war.

Dated at Eaton, Ohio, this 26th day of March, 1898.

JOHN A. MOORE,
Probate Judge of said County.

WASHINGTON, *April 20, 1898.*

Capt. J. C. HERVEY:

The committee wants to know the value of your property.

JOHN L. BRENNER, M. C.
NEW PARIS, OHIO, *April 20, 1898.*

JOHN L. BRENNER, M. C., *Washington, D. C.:*

Five hundred dollars.

J. C. HERVEY.

NEW PARIS, OHIO, *April 18, 1898.*

DEAR SIR: Your telegram received and answered by wire, but not as fully, perhaps, as necessary. I therefore wish to say by letter that in consequence of having no money I am often compelled to borrow small amounts to cover the necessities of life (to say nothing of clothing), and once had to be assisted by the township. I have no one to care a penny for me. I require constant medication and a constant nurse. My home is small, but I have to pay tax and insurance and keep up repairs to make us comfortable, and likewise live on a small allowance, without any of the luxuries of life. It is humiliating to me to be compelled to make these statements; but I think there are enough old soldiers already in the poorhouse, and I would shun this fate, if possible. Hoping the Government will deal justly with me,

I am, very respectfully,

Capt. JAMES C. HERVEY.

Hon. J. L. BRENNER.

These statements can be attested by the leading citizens of this place.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
JANUARY 1954

TO THE HONORABLE CHAIRMAN OF THE BOARD OF TRUSTEES
OF THE UNIVERSITY OF CHICAGO
FROM THE DEPARTMENT OF CHEMISTRY
SUBJECT: REPORT ON THE PROGRESS OF RESEARCH
DURING THE YEAR 1953

The following report summarizes the work done in the Department of Chemistry during the year 1953. It is divided into two main parts: a summary of the work of the individual members of the department and a summary of the work of the department as a whole. The first part is divided into two sections: a summary of the work of the faculty and a summary of the work of the students. The second part is a summary of the work of the department as a whole, including a summary of the work of the department in the field of research, a summary of the work of the department in the field of teaching, and a summary of the work of the department in the field of administration.

The work of the department during the year 1953 has been characterized by a high level of activity in all three fields. In the field of research, the department has made significant contributions to the understanding of the properties of the elements of the periodic table, particularly in the area of the rare earth elements. In the field of teaching, the department has continued to improve the quality of its instruction and to provide a high level of training for its students. In the field of administration, the department has continued to improve its management and to provide a high level of service to the University.

LUCY D. HEADY.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 909.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 909) granting an increase of pension to Lucy D. Heady, beg leave to submit the following report and recommend that said bill do pass with amendments.

This bill, as amended, proposes to increase from \$8 to \$18 per month the pension of Lucy D. Heady, of Binghamton, N. Y.

Henry Heady enlisted July 11, 1864, in Company F, Eighty-ninth New York Volunteer Infantry, and was honorably discharged October 12, 1865.

He was shot through the right arm at Petersburg, Va., April 2, 1865, which resulted in the amputation of the right arm above the elbow at middle third of humerus. This wound never fully healed, but frequently broke out, and was a constant drain upon the soldier's system.

He was a very strong, vigorous young man when he entered the service. From exposure and hard military service he incurred rheumatism, disease of eyes, kidney disease, and chronic dysentery, from which he never recovered.

His eyesight was perfect when he entered the service. He was in hospital sick September 26, 1864. The disease of eyes progressed and resulted in total blindness prior to his death. His other diseases progressed and undoubtedly caused his death. Dr. Seymour, of Binghamton, N. Y., certifies that chief and determining cause of death was "cerebral apoplexy;" consecutive and contributing cause "chronic nephritis." He was in a broken-down and helpless condition for a long time prior to his death, and the claimant was his faithful nurse. She is about 54 years of age, in very poor health, and in necessitous circumstances; now totally dependent on her pension of \$8 per month, and unable to earn anything by her own exertions. She has a daughter unmarried, who can barely support herself.

Your committee think an increase to \$18 per month is fully warranted,

and report the bill back with the recommendation that it pass, when amended as follows:

Strike out the preamble.

In line 7 strike out the word "fifty" and insert in lieu thereof the word "eighteen."

Amend the title so as to read: "A bill granting an increase of pension to Lucy D. Heady."

UNITED STATES OF AMERICA, *District of Columbia*, ss:

W. K. Butler, M. D., being duly sworn, declares on oath as follows: I am a physician and oculist and reside at No. 1207 M street NW., in the city of Washington, D. C. I know Mr. Henry Heady, of the Pension Office. He came to me on the 6th day of February, 1895, and I made a careful examination of his eyes on that date. I found him suffering from acute inflammation of the optic nerves of both eyes. He remained under my professional care and treatment from that date until the latter part of June. During this time I made several examinations of his eyes and tested his sight. He was unable during this time to read or write or use his eyes for any clerical work whatever. His eyesight did not improve while he was under my treatment.

W. K. BUTLER, M. D.

Subscribed and sworn to before me this 21st day of December, 1895.

[SEAL.]

E. E. RAMEY, *Notary Public*.

STATE OF NEW YORK, *County of Broome*, ss:

Erastus C. Delavan, being duly sworn, declares on oath as follows: I have known Henry Heady for thirty years last past, and am his brother in-law. Prior to about the 15th of last September I had not seen him since October, 1894. At that time there was no trouble with his eyes, so far as I had ever observed. In January, 1895, I began to hear that his eyesight was failing. This information came to me by letters from my sister, his wife; also by letter from Dr. Charles C. Church, of Passaic, N. J., in answer to my inquiry, he having visited a New York oculist in company with Dr. Church.

Mr. Heady removed to this city in October, where he now resides. I have seen Mr. Heady very frequently since he came to this city to live. His eyes have been getting worse gradually since he came to Binghamton. He is totally incapacitated from doing any kind of business or work, moves about the house and streets with extreme difficulty, and requires constant care in the preparation of his food at table and in the arrangement of his clothing and the care of his person.

ERASTUS C. DELAVAN.

Subscribed and sworn to before me this 16th day of December, 1895.

[SEAL.]

W. M. HAND, *Notary Public*.

STATE OF NEW YORK, *County of Broome*, ss:

J. Frank Pratt, being duly sworn, deposes and says: I am a physician and oculist, and reside at the city of Binghamton, N. Y., and have practiced my profession for seventeen years last past.

I have known Mr. Henry Heady, of the Pension Office at Washington, D. C., since about October 1, 1895. He first came to see me nearly three months ago for the purpose of having an examination of his eyes made by me and to obtain a diagnosis of the cause of his partial blindness.

I made a careful examination and tested his sight, and found that he was suffering from albuminuric retinitis, which was caused by chronic Bright's disease.

Having become satisfied that his blindness was not due to a direct affection of his eyes, but arose from other organic derangement, and my practice being confined particularly to eye troubles, and not being engaged in general practice as a physician, I recommended him to place himself under the care of a regular practicing physician, and I understand he has since been under the care of Dr. Seymour.

From the examination I made I am convinced that Mr. Heady will never recover his sight, nor will it improve; neither will he ever be able to do any further work or labor.

J. F. PRATT, M. D.

Subscribed and sworn to before me this 18th day of December, 1895.

STATE OF NEW YORK, *County of Broome*, ss:

John H. Heady, being duly sworn, declares on oath as follows: I am a son of Henry Heady, of the Pension Office, Washington, D. C. I am 20 years of age and have resided with my father and mother all of my life. On the 1st of January last my father was a clerk in the Pension Office at Washington, D. C. About that time his eyes began to trouble him, and about February 1 he was compelled to relinquish office work entirely. He was out of the office until early in April following. He then returned to the office, but, being unable to do any clerical work, was detailed as a messenger in the Pension Department. He remained in this position until July 3, when he was compelled to leave it, and has never since resumed work in the office. Since he left the office in February last he has not been able to read or write. I have read to him a great deal and have written his letters and read his letters to him. His eyesight has been gradually failing for several months past; he can only see to go about the house and on familiar streets. He can not use his eyes for any useful or practical purpose. He requires constant assistance in preparing his food and arranging his clothing, and is totally incapacitated from doing any kind of practical work or business.

JOHN H. HEADY.

Subscribed and sworn to before me this 13th day of December, 1895.

[SEAL.]

W. M. HAND,
Notary Public, Broome County, N. Y.

STATE OF NEW YORK, *County of Broome*, ss:

Erastus C. Delavan, being duly sworn, deposes and says: I reside at the city of Binghamton, Broome County, N. Y., and am well acquainted with Mr. Henry Heady and with his family. Mr. Heady married my sister, and was formerly in the Pension Office at Washington, D. C., until he was compelled to give up work on account of failing sight.

The family of Mr. Heady consists of a wife and two children, all of whom are dependent on him for their support, and his aged father, who is now upward of 75 years of age and is entirely incapacitated from any labor, and who is also entirely dependent upon him for his support.

Mr. Heady does not own any real property or interest in real property, and has personal property to the value of about \$700 and no more.

ERASTUS C. DELAVAN.

Subscribed and sworn to before me this 17th day of December, 1895.

[SEAL.]

W. M. HAND, *Notary Public.*

The first of the year was a very dry one, and the crops were much injured. The weather was very hot, and the ground was very dry. The crops were much injured, and the yield was very small. The weather was very hot, and the ground was very dry. The crops were much injured, and the yield was very small.

The second of the year was a very wet one, and the crops were much injured. The weather was very cold, and the ground was very wet. The crops were much injured, and the yield was very small. The weather was very cold, and the ground was very wet. The crops were much injured, and the yield was very small.

The third of the year was a very dry one, and the crops were much injured. The weather was very hot, and the ground was very dry. The crops were much injured, and the yield was very small. The weather was very hot, and the ground was very dry. The crops were much injured, and the yield was very small.

COMMISSION TO MAKE ALLOTMENTS OF LANDS TO
CERTAIN INDIANS.

APRIL 25, 1898.—Committed to the Committee of the Whole House on the state of
the Union and ordered to be printed.

Mr. FISCHER, from the Committee on Indian Affairs, submitted the
following

REPORT.

[To accompany S. 1883.]

The Committee on Indian Affairs, to whom was referred Senate bill 1883 and House bill 7760, each being identical in terms, and each entitled "A bill for the appointment of a commission to make allotments of lands in severalty to Indians upon the Uintah Indian Reservation in Utah, and to obtain the cession to the United States of all lands within said reservation not so allotted," beg leave to report the former to the House with the recommendation that it do pass with the following amendments:

In line 4, page 1, after the word "commission," strike out the word "of" and insert "consisting of not more than."

Strike out lines 12 and 13 on page 2, section 2.

Strike out the word "twenty," in line 7, page 3.

The committee has given careful consideration to this bill and the subject-matter to which it refers. The Uintah Reservation contains more than 2,000,000 acres of land, much of which by irrigation can be made productive and valuable for agricultural purposes, it being estimated by the surveyor-general of Utah that 60 per cent thereof is suitable for agriculture. Numerous streams of water traverse the reservation, which, at considerable expense, by means of dams and canals and ditches, can be diverted from their natural channels and appropriated upon the lands contiguous thereto. The greater portion of the reservation is unoccupied and is not required by the Indians residing thereon, but without legislation it can not be occupied and must remain sterile and unproductive.

The Uintah Indians, more frequently called Utes, reside in the extreme eastern portion of the reservation. They are less than 800 in number, and, notwithstanding the generous treatment of the Government accorded them, are rapidly diminishing. In recent years the United States has allotted lands in severalty to a portion of them with gratifying results. Those to whom allotments have not been made reside at the same place with those who have received lands. All are desirous of taking lands in severalty. So far as known, the Indians are impressed with the advantages that will result from an abandonment of their tribal relations and entering upon an industrial growth founded upon landed ownership.

The policy of the Government in dealing with the Indians is to allot lands in severalty to them and encourage the building of homes and agricultural and industrial development. It is believed this policy is best for the Indians and will conduce to their preservation as well as civilization. Without legislation there is no authority in the Government or its officials to allot lands upon the reservation to the Indians. The Interior Department as well as the Indian Bureau approve this measure with the amendments reported, believing that by its passage not only this result so desirable will be accomplished, but a large area of territory released and made available for disposition by the Government. Notwithstanding the very liberal provisions made in the bill for the Indians, there will be a large area for cession to the United States. In other words, though the bill provides that each head of a family shall receive 160 acres of farming land and the same amount for grazing purposes, nearly 2,000,000 acres will be added to the public domain, if, pursuant to this measure, a treaty with the Indians is negotiated and ratified.

The bill merely provides for the appointment of a commission, consisting of not more than three persons, to allot lands to the Indians and obtain by a treaty a cession from them to the Government of the residue of the land upon the reservation. If the Indians refuse to take allotments or to cede any portion of the reservation, then this measure becomes inoperative. On the other hand, if the Indians receive the commissioners, accept the allotments in severalty, and join in a treaty of cession to the Government, then, when the commission reports such treaty, Congress will determine whether the terms are such as will be approved. If the treaty fails of ratification the passage of this bill will have been in vain; if approved the Indians will be benefited, and the title (whether inchoate or indefeasible it is not necessary to determine) held by the Indians will be extinguished, and the lands not occupied by them will become a portion of the public domain of the United States.

Mr. Hall, the Assistant Attorney-General, in his report to the Secretary of the Interior, dated October 23, 1893, finds that the Indians are the owners of the lands within this reservation, because under the act of Congress of May 5, 1864 (13 Stat., p. 64), it was provided that the lands within the Uintah Reservation should be "set apart for the permanent settlement and exclusive occupation of the Indians." In order, therefore, to make available for settlement any portion of these lands it is necessary to obtain consent of the Indians by treaty or otherwise. The usual method employed by the Government in similar cases is to appoint a commission, as provided in this bill. The bill as it passed the Senate provided for three commissioners. The Secretary of the Interior suggests that under some circumstances one commissioner can discharge the duties as well as three; accordingly an amendment is proposed by which, if the President deems it advisable, a less number than three may be appointed.

In view of the fact that a commission is now at work allotting lands to the Uncompahgre Indians upon a reservation adjoining the Uintah Reservation, and these commissioners are daily associated with the Uintah Indians, it is thought that the work contemplated by this bill can be speedily accomplished and that the amount provided in the bill as it passed the Senate to cover the expenses of the commission is excessive. Accordingly your committee recommend an amendment by which \$5,000 is appropriated instead of \$25,000.

WAR BETWEEN THE UNITED STATES AND SPAIN.

APRIL 25, 1898.—Ordered to be printed.

Mr. ADAMS, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. R. 10086.]

The Committee on Foreign Affairs, to whom was referred the message of the President of the United States of this date, having considered the same, in accordance with the recommendations therein contained do hereby report to the House a bill declaring that war exists between the United States of America and the Kingdom of Spain, and unanimously recommend that said bill do pass.

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MILLE LAC INDIAN RESERVATION.

APRIL 25, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. STEVENS, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. Res. 245.]

The Committee on the Public Lands, to whom was referred the joint resolution (H. Res. 35) declaring lands within the former Mille Lac Indian Reservation, in Minnesota, to be subject to entry under the land laws of the United States, having had the same under consideration, report the joint resolution H. Res. 245 as a substitute and recommend its passage.

The report of the Secretary of the Interior, accompanied by the report of the Commissioner of the General Land Office, on this resolution and the bill H. R. 5178 are incorporated in this report and made a part thereof.

These letters of the Secretary of the Interior and Commissioner of the General Land Office fully set forth the status of this former Mille Lac Indian Reservation and the reasons why this resolution should pass.

DEPARTMENT OF THE INTERIOR,
Washington, March 18, 1898.

Hon. JOHN F. LACEY,
Chairman Committee on the Public Lands, House of Representatives.

SIR: Referring to your letter of the 11th ultimo, transmitting for my consideration joint resolution No. 35, introduced into the House by Mr. Morris, of Minnesota, "Declaring the lands within the former Mille Lac Indian Reservation, in Minnesota, subject to entry under the land laws of the United States," I have the honor to hand you herewith a copy of a report from the Commissioner of the General Land Office on said resolution, dated the 1st instant; also a copy of my report on H. R. 5178, in which, for reasons therein stated, I recommend the substitution of this resolution for said bill.

Very respectfully,

C. N. BLISS, *Secretary.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 1, 1898.

SIR: I am in receipt, by departmental reference of February 14, 1898, for report in duplicate and return of papers, of H. Res. 35, "Declaring the lands within the former Mille Lac Indian Reservation, in Minnesota, to be subject to entry under the

land laws of the United States," together with a request from Hon. John F. Lacey, chairman of the Committee on Public Lands, House of Representatives, for any suggestions or information that may aid the committee in its consideration of the same.

In reply I have the honor to inclose a copy of a report made by me March 1, 1898, on H. R. 5178, "Allowing actual settlers upon lands within the Mille Lac Indian Reservation, in the State of Minnesota, to perfect title to lands in said reservation under the general land laws of the United States," wherein my views are expressed on the question of opening to entry or filings the remaining lands in said reservation.

In addition thereto I have to state that the entries and preemption filings made for these lands between January 21, 1891, when the Department held that the Mille Lac lands should be disposed of as other public lands, and the decision of April 23, 1892 (14 L. D., 497), when the Department decided that the said lands were not subject to disposal under the general land laws, but under the special provisions of the act of January 14, 1889 (25 Stat., 642), were recognized and confirmed by the joint resolution of December 19, 1893 (28 Stat., 578), and, so far as these are concerned, no necessity exists for the passage of the resolution.

I am of the opinion that preemption filings, where the alleged rights to the lands have been or shall be initiated subsequent to April 22, 1892, should in no event be allowed, as this would be reenacting for the benefit of a few persons on this small Indian reservation the preemption law which was repealed by the act of March 3, 1891 (26 Stat., 1095). Therefore I do not recommend the passage of the resolution in its present form, but if amended as suggested in the last paragraph would recommend the passage of the resolution.

The papers are herewith returned.

Very respectfully,

BINGER HERMANN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 1, 1898.

SIR: I have had the honor to receive, by departmental reference under date of January 13, 1897, for early report in duplicate, and return of papers, a letter from the Committee on Indian Affairs of the House of Representatives, inclosing the bill H. R. 5178, allowing actual settlers upon lands within the Mille Lac Indian Reservation, in the State of Minnesota, to perfect title to lands in said reservation under the general land laws of the United States.

In reply I have the honor to state that said bill is identical with one (H. R. 4993) upon which this office made report on May 28, 1896.

The Mille Lac Reservation in the State of Minnesota was established in accordance with the stipulations in article 2 of the treaty of February 22, 1855 (10 Stat., 1165), with the Chippewa Indians.

By the treaties of March 11, 1863 (12 Stat., 1249), May 7, 1864 (13 Stat., 695), and March 19, 1867 (16 Stat., 719), this reservation and others were ceded to the United States, other lands being reserved for said Indians in lieu of those ceded. In both the treaty of March 11, 1863, and the subsequent treaty of May 7, 1864, it was provided—

That owing to the heretofore good conduct of the Mille Lac Indians, they shall not be compelled to remove so long as they shall not interfere with or in any manner molest the persons or property of the whites.

The act of Congress of July 4, 1884 (23 Stat., 89), provided that said lands "shall not be patented or disposed of in any manner until further legislation by Congress."

Prior to July, 1884, a number of entries, filings, and selections had been made for lands in the Mille Lac Reservation, and, by decision of January 9, 1891, the Department held that these were confirmed by the proviso to section 6 of the said act of January 14, 1889. (See 12 L. D., 52.) And under date of January 21, 1891, the Department, in response to an inquiry by this office, stated that the Mille Lac lands should be disposed of as other public lands.

On September 3, 1891, the Department held (13 L. D., 230) that the Mille Lac lands were subject to disposal under the special provisions of the act of January 14, 1889, *supra*, and when attention was called by this office to the discrepancy between the rulings of January 21, 1891, and September 3, 1891, the Department decided, on April 22, 1892 (14 L. D., 497), that the Mille Lac lands are not subject to disposition under the general land laws, but under the special provision of the act of January 14, 1889. During the period between the decision of January 21, 1891, and April 22, 1892, a large number of entries and filings to these lands had been allowed, and these were confirmed by the joint resolution of December 19, 1893 (28 Stat., 576).

Of the lands in this reservation it appears from the records of this office that about

12,796.99 acres are embraced in the pending entries, filings, selections, and rejected homestead applications; 42,685.44 acres have been patented, and that there remain about 5,305.24 acres unappropriated, of which 3,022.32 acres are in sections 16 and 36. Owing to the fact that action is being taken from time to time on these entries, filings, selections, and applications, the above figures are necessarily only approximately correct.

On January 14, 1889, Congress passed "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota." (25 Stat., 642). The first section of said act authorizes and directs the President to appoint three commissioners, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota except the White Earth and Red Lake reservations.

Section 3 of said act provides for the removal of all Chippewa Indians in Minnesota, except those on the Red Lake Reservation, to the White Earth Reservation, and for the allotment, in conformity with the act of February 8, 1887 (24 Stat., 388), to the Red Lake Indians of lands on that reservation, and to the other said Indians' lands on the White Earth Reservation. Said section further provides:

That any of the Indians residing on any of said reservations may, in his discretion, take his allotment in severalty under this act on the reservation where he lives at the time the removal herein provided for is effected, instead of being removed to and taking such allotment on White Earth Reservation.

No specific mention is made in this act of the Mille Lac Indians and the lands occupied by them, which, as was stated above, were ceded to the United States in 1863. However, the Mille Lacs were treated with under said act.

The assent, acceptance, or ratification of the said Mille Lac Indians was executed on October 5, 1889, and after reciting that the act of January 14, 1889, above, had been read, interpreted, and thoroughly explained to their understanding, and after expressing their consent to, acceptance, and ratification of said act, stated that they—

Do hereby grant, cede, relinquish, and convey to the United States all our right, title, and interest in and to all and so much of the White Earth Reservation as is not required and reserved under and in accordance with the provisions of said act, to make and fill the allotments, * * * and we do also hereby grant, cede, and relinquish to the United States, for the purposes and upon the terms stated in said act, all our right, title, and interest in and to the land reserved by us and described in the first article * * * of the treaty * * * proclaimed April 18, 1867 (16 Stat., 719), and also to the aforesaid executive addition thereto; * * * we do also hereby cede and relinquish to the United States all our right, title, and interest in and to all and so much of the Red Lake Reservation as is not required and reserved under and in accordance with the provisions of said act to make and fill the allotments to the Red Lake Indians in quantity and manner as therein provided; and we do also hereby forever relinquish to the United States the right of occupancy on the Mille Lac Reservation reserved to us by the twelfth article of the treaty of May 7, 1864 (13 Stat., 693). (See page 45, H. R. Ex. Doc. 247, Fifty-first Congress, first session.)

The words of the last clause seem clearly to have been an exercise of the right of election authorized by the proviso to section 3 of the act above mentioned. Said words were not necessary to the extinguishment of the title of said Indians to the lands, the words occurring before in the agreement being sufficient for that purpose. Having elected in this manner not to take the allotments on what was their own particular reservation, they can only properly take on the White Earth Reservation. Thus any hindrance on this account to the passage of the bill is removed.

It may be proper to add that at any rate the land is insufficient in quantity and unfit in quality for the purpose of allotment.

The said act of January 14, 1889, provides that the unallotted and unreserved land of said Chippewa Reservation shall be disposed of for the benefit of said Indians, and the bill makes no provision for the reimbursement of the fund to be derived from the sale of the said land on account of any lands to be entered under the proposed legislation.

However, in view of the fact that much of said lands is already covered by filings, selections, and claims, as hereinbefore stated, and in view of the waiver of the right by said Indians to elect to take the lands as above stated, to say nothing of the insufficiency and unsuitability of said lands for such purpose, and of the equity of the claimants to said lands by reason of the departmental decisions above referred to, I am impelled to look favorably on the proposed legislation, and I therefore have the honor to recommend the passage of the bill.

It is asserted that there are burial grounds of the said Indian band located on said land, and that the Indians feel an attachment for the locality on that account. It might be well for Congress to make some provisions for the perpetual reservation of

said burial grounds, or the removal of the dead buried therein to the White Earth Reservation.

The bill and accompanying letter are herewith returned.

Very respectfully,

BINGER HERMANN, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, March 18, 1898.

SIR: Referring to the reference by your committee on January 11 last of the bill H. R. 5178 entitled "A bill allowing actual settlers on lands within the Mille Lac Indian Reservation in the State of Minnesota to perfect title to the lands in said reservation under the general land laws of the United States," to this Department with a request for a report thereon, I have the honor to hand you herewith copy of a report on said bill by the Commissioner of the General Land Office, dated the 1st instant, and a copy of a report by the Commissioner of Indian Affairs, dated the 17th instant, both of whom, for reasons set forth in their respective reports, recommend the passage of the bill, and both of whom suggest that the bill be so amended as to provide for the protection of the burial grounds of the said Indians in said reservation.

Your attention is also called to House resolution No. 35, relating to the same subject, referred to me for report by the chairman of the Committee on the Public Lands of the House.

From the facts in the case, as disclosed by the reports of the Commissioner of Indian Affairs, it appears that by treaties in 1863-64 these Indians ceded all their lands in this reservation to the Government, taking other lands in lieu thereof; that they were permitted by the terms of said treaty to remain on said reservation so long as they did not interfere with the persons or property of the whites, and that by further treaty or agreement, dated October 5, 1889, entered into with the commissioners appointed under the act of January 14, 1889 (25 Stat., 642), known as the Nelson Act, they relinquished their right of occupancy on said reservation after electing not to take any allotments on that reservation, which, under the terms of the Nelson Act, they might have done.

It would appear, therefore, that the Indians, after due consideration and in the most formal manner, have, by treaty and agreement duly executed, parted with all their rights to the lands in this reservation. That being true, it is not apparent why the equities of settlers who have in good faith gone upon these lands under the belief that they were vacant public lands of the United States, and made valuable improvements on them, should not be recognized by the passage of some law that would permit said settlers to perfect their title to said lands. Such an act would be no infringement upon the rights of the Indians for the reasons above stated.

It further appears that these lands do not come under either of the two classes of lands referred to in my letter of the 5th instant with reference to H. R. 6896, known as the "Free Home Bill," and hence the passage of such a bill as I have suggested would not conflict with the opinions expressed in my letter of that date, nor with the policy therein recommended.

In this connection your attention is called to the report of the Commissioner of the General Land Office on House Resolution No. 35. It appears to me that if this resolution were amended in accordance with the suggestion of the Commissioner in respect to preemption filings, and in accordance with the recommendation of the said Commissioner and the Commissioner of Indian Affairs in reference to protecting the burial grounds of said Indians, said resolution would better accomplish the purpose desired.

I would therefore recommend when the same is amended as hereinafter suggested, the substitution of House Resolution 35 for H. R. 5178, and its enactment into law; and the amendments I would recommend to said resolution are as follows:

In line 6 of said resolution omit, after the word "under," "the preemption or homestead," and insert in lieu thereof "the public land," and after the word "made," in line 8, insert "prior to the repeal of the preemption law by the act of March 3, 1891," or "prior to March 3, 1891." The latter expression would probably be better because briefer.

After the word "entry," in line 11 of said resolution, there should be added a provision looking to the protection of the burial grounds of said Indians on said reservation.

Very respectfully,

C. N. BLISS,
Secretary.

Hon. JAMES S. SHERMAN,
Chairman Committee on Indian Affairs, House of Representatives.

CORRISSANDA L. MCGUIRE.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2588.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 2588) granting an increase of pension to CorriSSanda L. McGuire, have examined the same and all the evidence and respectfully report:

This bill proposes to increase from \$8 to \$20 per month the pension of CorriSSanda L. McGuire, of Shelbyville, Ind., as widow of Capt. James E. McGuire.

The Senate report (No. 741) states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 2588) granting an increase of pension to CorriSSanda L. McGuire, have examined the same and report:

This claimant is the widow of Capt. James E. McGuire, who served in the Mexican war in Company B, Second Kentucky Infantry, from May 20, 1846, to June 9, 1847. He also served as captain of Company F, Fifty-first Indiana Volunteers, from December 14, 1861, to October 24, 1862, when his resignation was accepted on surgeon's certificate of disability.

The widow is now pensioned at \$8 under the act of June 27, 1890.

The soldier was pensioned at \$20 for rheumatism and resulting disease of heart. He died January 21, 1894, and the attending physician, Dr. W. G. McFadden, testifies as follows as to the cause of his death:

"I regard the immediate cause of his death to have been typhoid fever, complicated with chronic rheumatism and heart disease, both of which, in my judgment, were important factors in causing the fatal termination of the fever, and no doubt superinduced the attack by reducing the system, and consequently there was less power to resist the attack."

The widow's claim under the general law, filed January 26, 1894, was rejected May 1, 1896, on the ground that "death resulted from typhoid fever not due to causes which have been legally accepted."

The widow was married to the soldier November 25, 1850, and is now about sixty-seven years of age. She is dependent upon her pension of \$8 per month for her support.

The question is purely a medical one, and if the pensioned cause—rheumatism and resulting heart disease—was an important factor in causing the death of soldier, the claim under the general law should be allowed. The last examination of the soldier, in 1891, rates him second grade for rheumatism and resulting disease of heart. The board says: "This claimant is totally incapacitated for the performance of manual labor."

A pension of \$20 per month would be what claimant would receive if the claim had been allowed at the Pension Office, and would be all that she would be entitled to if death cause is accepted as due to the service.

Your committee therefore recommend the passage of the bill with an amendment: Amend by striking out "fifty" and inserting "twenty," in line 10.

As the increase is fully justified, your committee report the bill back with the recommendation that it pass.

CONSTITUTIONAL HISTORY

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REBECCA S. FOSTER.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 3271.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3271) granting an increase of pension to Rebecca S. Foster, have examined the same and all the evidence relating thereto and respectfully report:

This bill, as amended, proposes to increase from \$30 to \$40 the pension of Rebecca S. Foster, of the city of New York, the widow of John A. Foster.

The soldier is reported by the War Department as having enlisted November 19, 1862, and mustered in January 17, 1863, as lieutenant-colonel One hundred and seventy-fifth New York Volunteers, and mustered out as colonel August 5, 1865.

He was brevetted brigadier-general of volunteers, to date September 28, 1865, "for meritorious services."

He was treated in the service for "general debility," "great constitutional depression," and shell wound. He was a most brave and efficient officer.

The soldier never applied for pension. He died February 11, 1890, his death resulting from disease of heart, result of rheumatism, of service origin, and cause of death has been so accepted by the Bureau of Pensions.

The widow filed a claim under the general law September 10, 1890.

It is shown that she was married to soldier February 28, 1865, and is now about 56 years of age, and needy.

Her claim under the general law was allowed May 13, 1895, and she has received \$30 per month since date of his death.

This widow is in poor health and straitened financial circumstances. This claimant married the soldier at the close of the war, and became his faithful and devoted nurse during his life, he continuing to be a great sufferer from the wounds received and disabilities incurred in service, and which finally resulted in his death.

The increase allowed by this bill is strictly in line with the action of this committee in similar cases. The soldier was prevented from following and prosecuting business pursuits to advantage after the close of the war by reason of his disabilities. Increases to \$50 per month have been granted in similar cases of even less merit, according to the judgment of some of your committee.

We do not approve of large increases on the ground of the rank held by the soldier merely. The necessities of the soldier or of the soldier's widow should control.

In view of all the facts—the service of the soldier, his lingering disabilities, his inability to follow any business, and the necessity of the widow—the bill is reported back with the recommendation that it pass when amended as follows:

After the word “roll,” in line 7, insert “and pay her a pension.”

In same line strike out “sixty,” and insert in lieu thereof “forty.”

In lines 8 and 9, strike out all after the word “month,” and insert in lieu thereof the words “in lieu of the pension she now receives.”

Amend the title so it will read: “A bill increasing the pension of Rebecca S. Foster.”

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, April 17, 1896.

SIR: Referring to your letter of the 15th instant, received yesterday, in which you request to be furnished with the military record of John A. Foster, late lieutenant-colonel One hundred and seventy-fifth New York Volunteers, I have the honor to inform you that the official records show as follows:

John A. Foster was mustered into service as lieutenant-colonel One hundred and seventy-fifth New York Infantry Volunteers, January 17, 1863, to serve three years. The muster rolls of the field and staff of the regiment from date of muster-in to June 30, 1863, inclusive, report him present. He was granted leave of absence for twenty days August 15, 1863, on surgeon's certificate of disability, and filed certificates on which to base application for extension of said leave until October 25, 1863, when he returned and reported at headquarters Department of the Gulf, New Orleans, La.

On October 29, 1863, at his own request, he was assigned to light duty at New Orleans; on December 11, 1863, was ordered to proceed to New York and represent to the governor of the State the condition and affairs of his regiment; on January 19, 1864, was ordered to report to the Adjutant-General of Army at Washington, D. C.; and on January 27, 1864, was assigned to duty as judge-advocate of a special military commission at Washington, D. C. He remained on duty with said commission, and on general court-martial duty, until August 12, 1865, when he was mustered out and honorably discharged the service in special orders from this Department.

He was brevetted brigadier-general of volunteers, to date September 28, 1865, “for meritorious services.”

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army, Chief Record and Pension Office.

HON. LEMUEL E. QUIGG,
House of Representatives.

JOHN C. BROWN.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 3474.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 3474) granting an increase of pension to John C. Brown, have considered the same and the evidence relating thereto and respectfully report:

This act proposes to increase from \$17 to \$30 per month the pension of John C. Brown, of 3734 K street, Tacoma, Wash.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 3474) granting an increase of pension to John C. Brown, have examined the same and report:

Claimant enlisted in Company D, Eighty-fourth New York Volunteers, June 18, 1861; reenlisted for the war in 1862, and was mustered out of the service August 21, 1865. He is pensioned from August 11, 1884, at the rate of \$17, for vertigo resulting from sunstroke and left inguinal hernia. Several applications for an increase have been rejected, the last one on June 25, 1890. In his last declaration for an increase he alleged, in addition to the disabilities for which the original pension had been granted, rupture of the right side, rheumatism, injury to back, and wound incurred in the service. The medical referee ruled that the rupture of the right side had not been incurred in the service, and did not result from the rupture of the left side, which had been so incurred. The claim for rheumatism, injury to back, and wound was rejected on the ground that no pensionable disability resulted therefrom since the time of filing the claim.

While under a strict construction of the general pension laws claimant may be unable to establish his right to an increase, there are in his case equitable considerations which, taken in connection with his gallant record in the service, appeal to Congress for relief by a special act.

Claimant was repeatedly promoted for gallantry on the field, and reached the rank of captain by brevet before leaving the service. The prisoner of war records show him to have been captured at Gettysburg on July 1, 1863, and confined in prison at Richmond, Va., until the 25th of August, when he was paroled at City Point, Va. He reported back to the service, and was again captured at Gaines Mill, Va., June 2, 1864, and confined at Richmond a second time, until June 8, when he was transferred to Andersonville Prison, where he was confined until December 13, 1864. After leaving Andersonville he weighed but 85 pounds.

Claimant is now wholly incapacitated for work of any kind, and, having no income other than the pension of \$17 per month which he receives, is in a dependent condition.

In a letter on file with this committee claimant states that he would be satisfied with an increase to \$30. For this reason we would recommend that the bill be amended by striking out the word "fifty," in line 7, and inserting in lieu thereof the word "thirty," and that as so amended the bill do pass.

The bill is therefore reported back with the recommendation that it pass when amended as follows:

From line 6 strike out the words "of Tacoma, Washington," and insert in lieu thereof the following: "late of Company D, Eighty-fourth New York Volunteers, and Company H, Fifth Regiment New York Veteran Volunteer Infantry, otherwise known as Duryeas Zouaves."

From lines 6 and 7 strike out the words "that he be granted" and insert in lieu thereof the words "pay him."

From lines 7 and 8 strike out the words "seventeen dollars per month now granted him" and insert in lieu thereof the words "the pension he now receives."

Amend the title so as to read: "An act granting an increase of pension to John C. Brown."



LEVI R. LONG.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STURTEVANT, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 949.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 949) granting an increase of pension to Levi R. Long, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$30 to \$40 per month the pension of Levi R. Long, of Halfrock, Mo.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 949) granting a pension to Levi R. Long, have examined the same, and report:

A similar bill passed the Senate during the first session of the Fifty-fourth Congress.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

"Levi R. Long enlisted as a private, Company I, Seventeenth Pennsylvania Volunteer Cavalry, September 18, 1862, and was discharged on surgeon's certificate of disability November 16, 1863.

"He filed claim for pension January 11, 1864, for 'amputation of left leg,' and was pensioned at \$8 from November 16, 1863; increased to \$15 from June 6, 1866; to \$18 from June 4, 1872; to \$24 from March 3, 1883, and to \$30 from September 1, 1886.

"His claims for increase have been rejected on the ground that the rate received is all claimant is entitled to.

"The medical examinations and testimony show that the left leg was amputated 5 inches below the knee, leaving an irritable stump, which causes general nervous debility; the left thigh is 5 inches smaller than its fellow; there is irritation of spinal cord, and lumbago caused by defective and poor locomotion; curvature of spine, and right shoulder depressed 2 inches lower than left; general atrophy of muscles of left arm and leg; and claimant is suffering from neuralgia, general debility, nervous prostration; claimant has chronic iritis, the sight of right eye nearly entirely gone and left eye badly affected, and also defective hearing. For the last fifteen months claimant has been confined to his room on account of defective eyesight and other disabilities, and has required the frequent aid and attention of another person to care for and nurse him.

"From the evidence submitted the committee believe this old soldier should receive the relief asked for, and therefore recommend the passage of the bill."

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7, after the word "Cavalry," insert the the words "and pay him a pension."

Amend the title so as to read: "An act granting an increase of pension to Levi R. Long."

ORIGINAL ARTICLES

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
PUBLISHED WEEKLY
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VOLUME 11, NO. 19
PAGES 1-100

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
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VOLUME 11, NO. 19
PAGES 1-100

SAMUEL A. SMITH.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 166.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 166) granting an increase of pension to Samuel A. Smith, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$30 per month the pension of Samuel A. Smith, of Alliance, Nebr.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 166) granting an increase of pension to Samuel A. Smith, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

Samuel A. Smith enlisted in Company C, Eighty-fourth Regiment Illinois Volunteer Infantry, as a private, on August 7, 1862, and was mustered out June 8, 1865. There is no record of desertion nor of dishonorable service attaching to the name of the soldier above. On May 27, 1880, he filed a claim for pension under the general law. A claim under the act of June 27, 1890, was filed August 4, 1890. The Alliance (Nebr.) board, in April, 1891, after a complete and exhaustive examination, reported that the applicant's physical and mental condition is "rated pensioner at two-eighteenths for rheumatism, six-eighteenths for varicose veins, six-eighteenths for disease of the heart, and two-eighteenths for hemorrhoids." The pensioner was allowed, under the old law, from November 23, 1891, \$2 per month from June 9, 1865, and \$6 per month from May 20, 1885, and ending August 3, 1890, by reason of allowance under the act of June 27, 1890, for varicose veins of left leg. On November 23, 1891, he was granted a pension of \$12 per month from August 4, 1890, for varicose veins of left leg, rheumatism, and disease of the heart.

Since the examination of the said Samuel A. Smith, made at Alliance, Nebr., in 1891, the claimant has been growing steadily worse. He is wholly incapacitated for manual labor and is perfectly helpless, his pension of \$12 per month being entirely insufficient to provide for medical attendance, nurse, and medicines. He is a helpless invalid, and has been confined to his bed since 1892 as the result of disease contracted in the Army of the United States. A majority of the business men of Alliance, Nebr., do testify to the above, in a petition marked "Exhibit A."

In addition to the above, Dr. E. E. Barr, a well-known and reputable physician of Boxbutte County, Nebr., testifies under oath that he has known said Samuel A. Smith for five years last past; that he has attended him in the absence of his regular physician quite a number of times during the past two years, and that said Smith has been confined to his bed with posterior spinal sclerosis, and that in his eight years of practice he has seen no more typical case. All of which is set forth in the affidavit hereunder attached and marked "Exhibit B."

In the opinion of your committee, this is a case most deserving of governmental action.

EXHIBIT A.

Hons. John M. Thurston and W. V. Allen, United States Senators; J. B. Strode, George D. Meiklejohn, William E. Andrews, David H. Mercer, Eugene J. Hainer, and O. M. Kem, Members of the House of Representatives, Washington, D. C.

SIRS: We, the undersigned, business men of Alliance, Nebr., respectfully represent to you the condition of Samuel A. Smith, late a private in Company C, Eighty-fourth Illinois Infantry.

This soldier has been, since August, 1892, a helpless invalid, and confined to his bed since that time with disease contracted in the Army of the United States during the war of the rebellion. This soldier has exhausted all his means and worn out his family, relatives, and friends, and is in such a condition as to require constant care, nurses, and watching; he is absolutely unable to attend to a call of nature or help himself in the least, and some arrangement should be made by which this old veteran can be taken care of by the Government, and we beg the Congress of the United States to make some provision for his care. It would require at least \$50 per month to defray such expenses, which neither this community nor his family are any longer able to render. His family are worn out and the charity of this community taxed beyond endurance. He is now receiving \$12 per month under act of June 27, 1890, and it is insufficient to pay for the medicine required. He has no use of his lower limbs, and seems to be paralyzed from his hips down, and has been in this condition since August, 1892. During the past year a water bed was purchased for him, which has relieved him somewhat, but his condition is pitiable in the extreme. His sufferings are beyond description, and his wants only partly stated herein.

In duty bound your petitioners will ever pray.

F. M. DORRINGTON, Attorney at Law.
 JAS. H. H. HEWETT, County Judge.
 S. M. SMYSER, Attorney at Law.
 R. C. WAUM, Attorney at Law.
 W. G. SINNONSON, Attorney at Law.
 CLARK BROS., Lumber and Coal.
 G. M. SULLIVAN, Attorney at Law.
 GEO. C. BELL, Groceries.
 W. W. NORTON, Dry Goods.
 R. H. WATKINS, Meat Dealer.
 Dr. E. G. HALLER, D. D. S.
 A. L. FIELD, Drugs.
 THOMAS BECK, Hardware.
 W. A. HAMPTON, Attorney.
 R. M. HAMPTON, Cashier First National Bank.
 REDDISH & HAMILTON, Real Estate Brokers.
 E. S. McWHINNEY, Dry Goods.
 FRED H. SMITH, Druggist.
 A. E. WOODBURY, Rocket Store.
 JOSEPH HEINTZ, Clothier.
 JOHN E. GRABER, Boots and Shoes.
 E. M. TODD, Dry Goods and Men's Furnishings.
 E. C. McCLURE, Dry Goods and Men's Furnishings.
 O. R. BOWMAN & CHAS. BRAUN, Grocers.
 L. W. EMERY, Furniture Dealer.
 F. M. KNIGHT, President of The Bank of Alliance.
 MOLLRING BROS., Merchants.
 C. A. NEWBURY, Hardware.
 GEO. W. DUNCAN, Groceries.
 F. M. BROOME, Receiver United States Land Office.
 J. N. JOHNSTON, Farmer and Stock Raiser.
 GILLESPIE BROS., Dry Goods.
 B. STEWART, Wholesale Grocer.
 W. D. RUMER, General Merchandise.
 J. C. BIRDSSELL, Train Master.

STATE OF NEBRASKA, *County of Boxbutte, City of Alliance*:

I do hereby certify that the foregoing petition represents a majority of the business men of this city, and that their signatures as attached are genuine.

[SEAL.]

JAS. H. H. HEWETT, *City Clerk*.

Approved.

F. M. BROOME, *Mayor*.

EXHIBIT B.

STATE OF NEBRASKA, *Boxbutte County, ss*:

E. E. Barr, being first duly sworn, says that he is a practicing physician and a graduate of a regular school, and duly registered under the laws of the State of Nebraska; further, that he is acquainted with Samuel A. Smith, late private in Company C, Eighty-fourth Illinois Infantry, and that said Smith resides at Alliance, Nebr., or near Alliance, and that said Smith has been confined to his bed for the past two years and more with posterior spinal sclerosis—one of the most typical cases I have seen in my eight years of practice.

Have known him for five years last past; have been to see him in the absence of his regular physician quite a number of times in the past two years. There is no history of syphilis, either acquired or inherited. His form of disease is of a paralytic form. I do further state that I am not related in any manner to said Smith.

E. E. BARR, M. D.

Subscribed in my presence and sworn to before me this 14th day of December, A. D. 1895.

[SEAL.]

F. E. REDDISH, *Notary Public*.

(Commission expires July 2, 1900.)

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 7 strike out the word "grant" and insert in lieu thereof the word "pay."

○

The first of the three main branches of the subject is the history of the subject. This branch is the most important, and it is the one which has attracted the most attention of the public. It is the history of the subject which has been the most successful in its efforts to bring the subject to the attention of the public.

The second of the three main branches of the subject is the theory of the subject. This branch is the most important, and it is the one which has attracted the most attention of the public. It is the theory of the subject which has been the most successful in its efforts to bring the subject to the attention of the public.

The third of the three main branches of the subject is the practice of the subject. This branch is the most important, and it is the one which has attracted the most attention of the public. It is the practice of the subject which has been the most successful in its efforts to bring the subject to the attention of the public.

JOHN H. MULLEN.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BOTKIN, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 156.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 156) granting an increase of pension to John H. Mullen, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$20 per month the pension of John H. Mullen, of Wabasha, Minn.

The Senate report states the facts and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 156) to increase the pension to Capt. John H. Mullen, have examined the same and report:

A similar bill was introduced in the Senate during the second session of the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

“John H. Mullen enlisted October 7, 1861, as a private in Company B, Twelfth Connecticut Infantry. He was promoted to corporal, sergeant, sergeant-major, second lieutenant, first lieutenant and adjutant, and captain, with which rank he was mustered out and honorably discharged August 12, 1865. He participated in every action in which his regiment was engaged during his entire service, and was wounded in side at the battle of Cedar Creek October 19, 1864. It appears that he had a severe attack of inflammatory rheumatism in March and April, 1862, again in 1873, and again in 1891. He believes that such rheumatism caused disease of the heart, but he is unable to furnish satisfactory evidence of origin and continuance of rheumatism or disease of heart.

“W. H. Lincoln, M. D., of Wabasha, Minn., testifies that on October 13, 1893, he found claimant suffering from embolism of the left femoral artery. The embolism was undoubtedly from the heart and the result of rheumatic heart disease. Collateral circulation sufficient to nourish the limb could not be established, and he was compelled to amputate the limb at the upper third of the thigh October 18, 1893. The heart disease and the loss of his leg totally incapacitate him from manual labor. The examining board at Wabasha, Minn., March 18, 1896, rated him thirty-six eightieths for loss of leg and twelve-eightieths for disease of heart. If he could establish his disabilities as of service origin he would be entitled to \$45 per month. He can not do so, however, and is now pensioned under the act of June 27, 1890, at \$12 per month, which is his only means of support for himself and wife and four children.

“In view of his helplessness and need and the probability that his helplessness is due to causes which originated in the service, your committee is of the opinion that this man should be pensioned at total of the rank which he earned during nearly four years of hard service. It is therefore recommended that this bill do pass.”

The bill is therefore reported back with the recommendation that it pass when amended as follows:

In line 6, after the word “pension,” insert the words “at the rate.”

Amend the title so as to read: “An act granting an increase of pension to John H. Mullen.”

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JAMES W. JACKSON.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 2981.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2981) granting an increase of pension to James W. Jackson, have carefully considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$12 to \$20 the pension of James W. Jackson, of Brooklyn, N. Y., who served as private in Troop G, First United States Cavalry, from June 14, 1860, to June 25, 1862, when discharged for disability. The records show him treated while in the service for diarrhea, catarrh, subluxatio, and gunshot wound. He was discharged on surgeon's certificate of disability:

Because of entire loss of use of first and second fingers of the right hand from inability to flex or extend them, and partial loss of use of the third and fourth fingers of the same hand, the result of a wound through the palm of said hand, received in action at the battle of Valverde, N. Mex., February 21, 1862. Degree of disability, two-thirds.

He filed and established a claim under the general law for gunshot wound right hand and was pensioned therefor at \$3 from date of discharge; increased to \$8 from August 14, 1889. He filed a claim June 27, 1891, under the act of June 27, 1890, and was pensioned under said act from that date at \$12 per month. The certificate of examination by a board of surgeons at Brooklyn, N. Y., May 2, 1894, shows the following condition:

Rheumatism. All of claimant's joints are involved. The joints of the hands and feet are all enlarged and swollen, tender, and stiffened. The knees, thighs, shoulder and elbow joints are thickened and deformed, but not so sensitive as the feet and hands. There is deformity and limitation of motion to the extent that claimant is unable to stand on his feet without some support. He is unable to take care of himself in any way requiring the use of either hands or feet, and he requires the assistance of another person at all times. The fingers are firmly ankylosed at a right angle to the palm of the hand.

In our opinion the claimant is so totally and permanently helpless by reason of chronic rheumatism that he requires the regular and constant personal aid and attendance of another person.

William G. Russell, M. D., in an affidavit executed June 5, 1897, and filed with this committee, says:

Now, his hands and feet are in the worst condition of distortion from chronic rheumatism that I have ever seen. His left eye is displaced from the same cause. Applicant's condition is not due to former or present vicious habits.

The claimant is now 56 years of age. He is shown to be without means of support aside from his present pension and assistance rendered by friends and the G. A. R. post to which he belongs. His wife, whose attendance he requires, is compelled to do what work she can to help in his support.

This soldier has a \$20 disability of service origin. The bill is reported back with the recommendation that it pass, when amended as follows:

In line 4 strike out the words "increase the pension" and insert in lieu thereof the words "place the name."

From lines 5, 6, and 7 strike out all after the word "Cavalry," and insert in lieu thereof the following: "on the pension roll and pay him a pension at the rate of twenty dollars per month in lieu of the pension he now receives."



THOMAS MADDEN.

APRIL 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BREWSTER, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 2219.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 2219) granting a pension to Thomas Madden, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to pension, at the rate of \$8 per month, Thomas Madden, of Denver, Colo.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 2219) granting a pension to Thomas Madden, have examined the same and report:

A similar bill was introduced in the Senate during the Fifty-fourth Congress, passed the Senate, and was reported favorably by the House.

The Senate report was as follows, which your committee adopt, and recommend the passage of the bill:

“The bill proposes to place the name of petitioner upon the pension roll, ‘subject to the provisions and limitations of the pension laws.’ The records of the War Department show him to have served in Company H, Thirty-second New York Infantry, from May 31, 1861, to June 9, 1863, but disclose no evidence of treatment in service for any disability.

“He has filed in the Pension Bureau applications under acts of July 14, 1862, and June 27, 1890. The old law claim stands rejected because of insufficient evidence of origin of alleged disabilities, and the claim under act of June 27, 1890, is rejected upon the ground of no ratable disability under said act. The basis of the claim under the act of June 27, 1890, is ‘diarrhea, mental disease, pains in head, rheumatism, general nervous prostration, left varicocele, rectal disease, weakness of bowels, disease of kidneys, catarrh, indigestion, and vertigo.’

“Under the general law he claimed for epilepsy as alleged result of diarrhea.

“In 1893 neighbors Taeschler and Fennell testified to having known petitioner to be a ‘physical wreck’ since 1890, when the new law claim was first filed. As to the reputation of these affiants, one is referred to as ‘all right’ and the other as ‘good.’ In 1891 neighbors Scott and O’Donnell testified as to claimant’s inability to do ‘any manual labor at wages that would support himself.’

“Dr. Thomas Bateman testified in 1893 ‘that in his judgment said Madden is incapable of performing manual labor to any considerable extent; that he is disabled to an extent of fully one-half.’ This affiant has practiced medicine forty-five years.

“As to medical examinations: In May, 1891, the Denver board of surgeons rated him but four-eighteenhs; again, in November, 1893, said board gave no rate, con-

cluding its certificate—'in opinion of board claimant is not totally disabled for manual labor.'

"In March, 1895 (last examination held), the same board 'find he has not full equilibrium of mind. Present condition is one of unsound balance, with, perhaps, periods of subacute mania. We consider him, physically, not incapacitated for manual labor, but mentally he is not competent to manage his affairs; at the same time he thinks he is. Alleged attacks of epilepsy are attacks of mania.'

"There is no evidence of vicious habits. The contention of the Commissioner of Pensions is that the petitioner is not ratably disabled under the act of June 27, 1890, but the committee hold that even without relying upon the favorable evidence adduced by the claimant the report of the Denver board, made in March, 1895, discloses a degree of mental impairment on petitioner's part amply sufficient to entitle him to a rating of at least \$8 per month under the said act."

The bill is therefore reported back with the recommendation that it pass when amended as follows:

From lines 4 and 5 strike out the words "at the rate of eight dollars per month."

In line 6, after the word "Infantry," insert the words "and pay him a pension at the rate of eight dollars per month."

○

REVENUE TO MEET WAR EXPENDITURES.

APRIL 26, 1898.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DINGLEY, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany H. R. 10100.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 10100) "to provide ways and means to meet war expenditures," submit the following report:

The precipitation on the United States of a war with Spain has rendered it necessary to immediately provide ways and means to meet war expenditures on the scale demanded by modern naval and military operations.

Such an unwelcome demand on our resources comes at a time when, under the workings of the tariff act of July 24, 1897, we had begun to overcome in large measure the injurious effect of anticipatory importations, and had already received in the months of February and March revenue more than three millions in excess of ordinary peace expenditures for these months (four millions of the expenditures appearing in the March statement having been made on account of preparations for national defense under authority of the joint resolution of March 9), and that, too, with a large falling off of customs revenue the last ten days of March and since, in consequence of the disturbance of trade arising from threatened war.

There is no doubt that if peace conditions had continued the estimate of the Secretary of the Treasury that the revenue for the next fiscal year would reach 390 millions, exclusive of postal receipts—63 millions in excess of the revenue for the fiscal year 1896, and more than that sum in excess of what the revenues for the fiscal year 1897 would have been if it had not been for anticipatory importations in the last four months of the latter year, to avoid the increased duties of the new tariff—would have been more than realized, and these receipts would have fully met the expenditures for the next fiscal year if it had not been for the increase caused by the difficulties with Spain; inasmuch as the expenditures for the fiscal year 1896, exclusive of postal expenditures paid by postal revenue, were only 352 millions, and for the fiscal year 1897 only 365 millions.

These difficulties, even before war conditions arose, had so stirred the public mind as to demand largely increased appropriations for enlarging the Navy and for national defense.

The destruction of the United States battle ship *Maine* in the harbor of Havana on the 15th of February last so intensified the situation that Congress, a few weeks thereafter, realized the necessity of taking prompt measures to prepare for any exigency, and by joint resolution appropriated \$50,000,000 for national defense.

Under the authority of this joint resolution about 35 millions of this appropriation have already been used, although payments have as yet been made for only a part of this sum, and liabilities for the remainder of the appropriation will have been incurred within a few weeks.

An examination of the condition of the Treasury will make it apparent that no time should be lost in providing ample ways and means for carrying to a successful conclusion the war into which we have now plunged.

The apparent cash balance in the Treasury when the joint resolution appropriating 50 millions for national defense was passed was about 225 millions, including the 100 millions gold redemption fund, or 125 millions excluding that fund. But this balance was only apparent, inasmuch as 13 millions consisted of fractional silver, largely uncurrent, and minor coins, leaving only 112 millions. But of this amount 14 millions consisted of receipts from sale of Pacific Railroad, held in the Treasury for the payment of that amount of Pacific Railroad bonds due on the 1st of January next, and 33 millions of the bank redemption fund held for the payment of the notes of national banks failed, in liquidation or reducing circulation. Deducting these amounts, and the actual available cash in the Treasury belonging to the Government at that time, exclusive of the greenback redemption fund, was only 65 millions.

Inasmuch as a working balance of about 40 millions is required to properly carry on the operations of the Government, there remained only 25 millions belonging to the Government available for use in meeting the 50-million appropriation. It will be necessary, in order to meet all of the expenditure under the 50-millions appropriation—all of which will have been expended within a few weeks—to use 25 millions of the bank redemption fund, a part of which must be replaced before the close of the present calendar year.

Inasmuch as the difficulties with Spain have plunged this country into a war whose magnitude and length can not be now intelligently forecasted, it is necessary that measures should be immediately taken to provide ways and means to carry on naval and military operations on a scale and with a promptness which will exert an important influence in shortening the conflict.

As the expenses of the preparations for defense that have been going on for nearly two months are at the rate of 25 millions per month, or 300 millions per annum, and the expenses of actual war will be much more, your committee are of opinion that the necessities of the country, as well as the early successful conclusion of the war, call for such ample provision, both by taxation and authority to make loans, for means to carry on naval and military operations as will impress the great powers of Europe, as well as Spain, with the conviction that the people of the United States are united in the determination to prosecute the war on a scale and with a vigor that make prolongation of hostilities useless.

With this object in view your committee recommend the levying of internal-revenue taxes either on articles of voluntary consumption or on objects that will make such taxes fall mainly on persons able

to contribute to the national defense, which will, in the aggregate, yield from 90 to 100 millions of additional annual revenue, distributed as follows:

One dollar per barrel additional tax on fermented liquors, estimated to yield an increased revenue of.....	\$33,000,000
Six cents per pound additional tax on tobacco and on tobacco in stock.	15,000,000
A special tax of \$4.80 per annum on dealers in tobacco and cigars, etc..	5,000,000
An increase of \$1 per thousand on cigars and cigarettes.....	5,000,000
A stamp tax on documents, instruments, checks, proprietary medicines, etc., substantially the same as it existed in 1866, with certain additions	30,000,000
A stamp tax on wines, mineral waters, and beverages sold in bottles, unestimated	
An increase in the tonnage tax on vessels in the foreign trade	2,000,000

These are all taxes on objects which were assessed during or subsequent to the civil war, with one exception, and therefore open up no new and untried system of taxation. They are all internal-revenue war taxes, that can be collected by the existing internal-revenue officials, slightly increased, with a small additional expense, and with the minimum disturbance of trade, although they are all taxes which are unwelcome, and which it would not have been necessary to impose if war had been avoided.

While all of these additional taxes are war taxes, which would be naturally repealed or modified when the necessities of war and the payment of war expenses have ceased, yet it is impossible now to place a limit on them, not only for the reason that no one can intelligently forecast the length of the war, but also for the reason that war always brings a train of extraordinary expenditures which do not terminate with the close of actual hostilities.

It is evident that it will be necessary, in order to maintain the public credit, not only to raise the additional revenue provided by the accompanying bill, but also to authorize the Secretary of the Treasury to borrow on the credit of the Government, from time to time, as the public necessities may require.

We have given, therefore, authority to issue and sell not exceeding five hundred millions of ten-twenty 3 per cent coin bonds, to be offered as a popular loan, believing as we do that such a bond will be taken from time to time by the masses of the people. We have fixed ten years as the period after which the bonds authorized may be redeemed at the pleasure of the United States, not only because we regard it necessary to do this in order to secure subscriptions at par for the later issues, but also because the fact that the one hundred million 5 per cent loan of 1904 and the large 4 per cent loan of 1907 would inevitably be paid or refunded by the Government before a 3 per cent bond would be redeemed, makes a bond that can be redeemed at the end of ten years as desirable to issue as one that can be redeemed at the end of five years.

In view of the fact that it will be necessary in a very few weeks, before the proposed war taxes can bring results and before the loan authorized can be placed, to provide means to meet the rapidly augmenting war expenditures, authority is given the Secretary of the Treasury to temporarily borrow money, in no case exceeding one year, by the issue of 3 per cent certificates of indebtedness. It is important that the Secretary of the Treasury shall have this authority in any exigency that may arise in the future.

Your committee, therefore, report back the accompanying bill with amendments, with a recommendation that it be passed.

The history of the United States is a story of growth and change. It begins with the first settlers, who came to the Americas in search of a new life. They found a land of opportunity, but also one of hardship. The early years were marked by struggle and sacrifice, as the settlers fought to establish a new society. Over time, the United States grew from a small colony into a powerful nation. It was a process of constant evolution, shaped by the dreams and aspirations of its people. The story of the United States is a testament to the power of the human spirit and the ability to overcome adversity. It is a story of hope and progress, of a nation that has always been looking forward.

ELIJAH N. PARKHURST.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GIBSON, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1475.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 1475) granting an increase of pension to Elijah N. Parkhurst, have considered the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$30 to \$72 per month the pension of Elijah N. Parkhurst, of Hamburg, Iowa.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 1475) granting a pension to Elijah N. Parkhurst, have examined the same and report:

A similar bill passed the Senate during the Fifty-fourth Congress, and was reported favorably by the House.

The Senate report is as follows, which your committee adopt, and recommend the passage of the bill:

The Committee on Pensions, to whom was referred the bill (S. 1946) granting a pension to Elijah N. Parkhurst, have examined the same and report:

The claimant under this bill was a member of Company A, Ninth Regiment Indiana Volunteers. He enlisted July 1, 1861, and was discharged for disability May 16, 1865, having a service of nearly four years. It is shown that he was an entirely healthy man at date of enlistment, and continued so until severely wounded in the left foot during a cavalry skirmish at Linnville, Tenn., on the 4th day of September, 1864. Prior to the wound he had been riding for several days constantly, and after being wounded was left on the field for four days without food and with only half a canteen of water.

The testimony shows that after the wound was received, and as a result of exposure, his right leg became affected, swelling badly, varicose veins appearing, which never after disappeared. The wounded leg discharged pus continually until it was amputated, in November, 1873, after which ulcers appeared on the right leg, which resulted in a diseased condition so severe as to necessitate amputation January 13, 1891.

It is shown that soldier had a long hospital service, and there are also many affidavits on file testifying to his terrible sufferings prior to the amputation of his limbs. Drs. Bogan and Denney certify to their treatment of soldier prior to the amputations, representing that his condition rendered him almost entirely helpless, and that he was in constant danger of loss of life from pyæmia.

Soldier has also lost the sight of the left eye, but it does not appear that that can be directly traced to his army service. He is receiving pension at the rate of \$30 per month, and applied for increase March 12, 1891, and was subjected to a very rigid examination. Manifestly an effort was made to connect the disease of the right leg with syphilitic infection, but that entirely failed, the medical testimony on that point being conclusive.

The claim was placed in the hands of two special examiners, who reported that they found it to be a meritorious one, and the medical board at Hamburg, Iowa, March 16, 1892, recommended a rating of \$72 per month for loss of legs and \$17 per month for loss of eye. The claim was, however, rejected on the ground that the varicose veins of the right leg, which finally necessitated amputation, were not necessarily of service origin; but inasmuch as soldier had served about three years before the varicose condition appeared, there would seem to be no doubt as to the incurrence of this disability.

The bill is therefore reported back with the recommendation that it pass.



FARNHAM J. EASTMAN.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DRIGGS, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 1353.]

The Committee on Invalid Pensions, to whom was referred the bills (S. 1353 and H. R. 2514) granting an increase of pension to Farnham J. Eastman, have examined the same and the evidence relating thereto and respectfully report the Senate bill.

This bill, as amended, proposes to increase from \$24 to \$30 per month the pension of Farnham J. Eastman, of Cheney, Spokane County, Wash.

This soldier served from August 11, 1862, to June 7, 1865, and was honorably discharged.

The records show him to have been treated while in the service for chronic diarrhea, hemorrhoids, and rheumatism.

He filed and established a claim under the general law for chronic diarrhea and resulting piles, and was pensioned therefor at \$8 from March 3, 1885, date of filing; was increased to \$12 from May 19, 1886; to \$17 from December 24, 1890, and to \$24 from December 21, 1892, and is now drawing a pension of \$24 for chronic diarrhea and resulting piles and disease of rectum.

In 1889, by the explosion of a blast, he lost both eyes and was rendered deaf.

The board at Spokane, Wash., December 2, 1892, rated claimant \$72 for loss of sight, \$27 for deafness, \$16 for chronic diarrhea, \$12 for chronic gastritis, and \$17 for disease of rectum, aggregating \$144 per month—\$45 for disabilities due to service and \$99 for those due to accident in 1889.

The board at that time said:

The disabilities resulting from chronic diarrhea, chronic gastritis, and disease of rectum totally incapacitate him from manual labor.

At his last medical examination, March 11, 1896, the board said:

Both eyes are out. Total deafness of both ears; can hear absolutely nothing. Only loud conversation can be heard through speaking tube. Teeth all bad. He is poorly nourished and poorly muscled. In opinion of board this man should have \$72 per month, as he is dependent upon an assistant absolutely.

Hemorrhoidal tumors constituting an ulcerated mass protruded; almost complete prolapse of lower rectum; no evidence of vicious habits. It appears from evidence filed with this committee that this soldier has no home and no income or means of support except his pension.

It can not be doubted that this soldier is in a most deplorable condition, but the Government has not undertaken and can not undertake to fully provide and care for those who served in the Army and who, by reason of accidents occurring long after their service terminated, have incurred serious disabilities. Such action by Congress in special cases amounts to favoritism. It can not be justified only in exceptional cases, and then care must be taken to keep within the bounds of reason.

This soldier is drawing \$24 per month for disabilities of service origin. He lost his eyesight from causes in no way, directly or indirectly, arising from army service. When we add \$6 per month on this account we are going as far as Congress ought to go in such cases. By general law Congress has declared soldiers shall only receive \$12 per month, no matter how great the disability, when inability to perform manual labor is not the result of army service.

This soldier has no wife or children dependent on him for support, and \$30 in this case is more than \$50 would be in a case where the claimant has a wife or child, or both, dependent on him for support. Reasonable increases enable Congress to do good in many cases and carry happiness to many firesides, while large increases in a few cases clog legislation and create a feeling of discontent among the thousands of needy old veterans who only receive \$12 per month.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 7 strike out the word "fifty" and insert in lieu thereof the word "thirty."

CARLTON W. MUZZY.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SULLOWAY, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany S. 484.]

The Committee on Invalid Pensions, to whom was referred the bill (S. 484) granting an increase of pension to Carlton W. Muzzy, have examined the same and the evidence relating thereto and respectfully report:

This bill proposes to increase from \$8 to \$20 per month the pension of Carlton W. Muzzy, of West Milan, N. H.

The Senate report states the facts, and is as follows:

The Committee on Pensions, to whom was referred the bill (S. 484) granting a pension to Carlton W. Muzzy, have examined the same and report:

A similar bill passed the Senate during the second session of the Fifty-fourth Congress, and was reported favorably in the House. The Senate report in the case was as follows:

“Carlton W. Muzzy, landsman, U. S. S. *Minnesota*, United States Navy, served from April 12, 1861, to April 13, 1864, and was honorably discharged. He claimed and was granted a pension under the general law for disease of eyes at \$4 per month. His pension was increased to \$8 for the same disability from July 13, 1889, and in March, 1891, was pensioned under the act of June 27, 1890, for disease of eyes and catarrh, at \$12 per month.

“In 1895 the medical officers of the Pension Bureau decided that he was not entitled to any rate under the act of June 27, 1890, and dropped him from the rolls under that act. Meantime he had filed a claim under the general law for catarrh and affection of back and spine, and in January, 1896, a reissue was made to pension him under the general law for disease of eyes and catarrh. His claim for disease of back and spine was rejected on the ground that no ratable disability had existed therefrom since date of filing.

“He was dropped from the rolls under the act of June 27, 1890, his pension of \$12 thereunder ceased, and in lieu thereof he was given \$8 per month for disease of eyes and catarrh, the same that he was receiving for disease of eyes alone prior to the commencement of his pension under the act of June 27, 1890.

“The records show him to have been treated while in the service for cholera morbus, tonsilitis, periostitis, and paronychia, diarrhea, and bronchitis.

“At his first medical examination, August 25, 1886, he was rated one-half for disease of eyes. July 3, 1889, he was rated eight-eighteenths, or \$8, for the same disability. March 12, 1890, he was rated sixteen-eighteenths, or \$16 per month, for disease of eyes. December 31, 1890, on his examination for disease of eyes and catarrh, he was rated at twelve-eighteenths for disease of eyes and six-eighteenths for catarrh.

"Examination of January 30, 1895, describes a catarrhal condition of the throat, also tenderness on pressure over cervical and dorsal vertebra, especially over lower dorsal vertebra. Eyes red and watery, chronic conjunctivitis; vision, both eyes, twelve-twentieths; right eye, ten-twentieths; left eye, five-twentieths. Eyeballs quite sensitive to pressure. The last examination, in 1895, shows serious affection of eyes, catarrh, affection of spine, and disease of rectum. The testimony of eye specialists shows a very bad affection of eyes."

Your committee recommend the passage of the bill, after being amended by adding to it the words "in lieu of that he is now receiving."

The bill is therefore reported back with the recommendation that it pass.

C

MARY H. S. ROBERTSON.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 651.]

The Committee on War Claims, to whom was referred the bill (H. R. 651) for the relief of the estate of Mary H. S. Robertson, submit the following report:

This is a claim for rent of a dwelling situated in Paducah, Ky., from September 10, 1861, to October 8, 1865, by the United States forces under the command of and used by Brig. Gen. Lew Wallace as his headquarters from September 10, 1861, till about the time of the Fort Donelson fight in February, 1862. As soon as he vacated it it was taken by the military authorities in command of the post at Paducah, and occupied and used by them as a convalescent hospital continuously up to the 8th day of October, 1865.

The case was originally filed with the Quartermaster-General United States Army, and transferred to the Third Auditor of the Treasury, by which officer, after a thorough examination of all the proofs, it was recommended for payment and sent to the Second Comptroller for approval, but which officer, although admitting "the evidence is voluminous as to the ownership and loyalty of the claimant, the fact of the occupation, the value of the property, and the duration of the occupancy," yet disapproved the finding of the Auditor on the ground that it did not appear there was any stipulated agreement to pay rent for the occupation of the premises.

Your committee, after an investigation, find with the Third Auditor there is sufficient evidence upon which to imply a contract to pay rent in this case.

The claim is proved beyond a shadow of a doubt, and as it is a just demand your committee recommend the payment of the claim and the passage of the bill, with the following amendment:

In line 9, after the word "in," insert "Paducah."



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HEIRS OF CATHARINE GILLIN.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 791.]

The Committee on War Claims, to whom was referred the bill (H. R. 791) for the relief of the heirs of Catharine Gillin, submit the following report:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fifty-fourth Congress, a copy of which is hereto attached and made a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 27 2, Fifty-fourth Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 10161) for the relief of the heirs of Catharine Gillin, having had the same under consideration, submit the following report:

That this is a claim for the proceeds of 19 boxes of tobacco taken from Mrs. Gillin during the late war by one Mr. Loomis, a Treasury agent. At the time of the taking of said tobacco Mrs. Gillin resided at Richmond, Va. Her husband died in 1868. She presented her claim to the Southern Claims Commission for adjudication. That commission reported that—

The claimant was loyal to the United States Government, but there was no evidence that the tobacco was taken for the use of the Army; nor is tobacco a regular army supply for which this Commission is authorized to report in favor of compensation. The tobacco was taken possession of by one Mr. Loomis, a Treasury agent.

After this case was disallowed the Commissioner of Claims rendered the following decision:

Tobacco.—Until the act of March 3, 1865, tobacco was not furnished to the Army. Under that act it has been issued to those who use it, and charged to them on the pay rolls.

In the claims that have come before us, tobacco has not usually been regarded as a supply, and therefore has been disallowed.

Claims for tobacco alleged to have been taken and issued to the troops at Atlanta, Ga., under the order of General Sherman of September 8, 1864, are pending before us. The examination of them is still going on, and they will be reported upon hereafter.

After the capture of Atlanta, in September, 1864, General Sherman found that he was short of rations for his army, and that the soldiers were subject to many privations. To make his army contented, and, as far as possible, to make up to them for their usual rations, of which they were for the time deprived, he issued an order on the 8th of September, 1864, authorizing the chief commissary of subsistence to take possession of and issue to the troops all the tobacco in Atlanta, and give certificates thereof to the owners, to be accounted for in accordance with existing orders.

Pursuant to this order tobacco belonging to George J. Stubblefield was taken, and upon his making claim for payment the Commissary Department recommended, "As this tobacco was taken *by order of General Sherman* and issued to the troops *in lieu of other rations*, and as the loyalty of the claimant is clearly established," that payment should be made. This was approved by the Secretary of War, Mr. Stanton, and the claim was paid.

The payment stands upon the ground that when an army is deprived of its usual rations the commanding general can, in his judgment, authorize an article not a supply to be taken and used for the time being as a supply and *in lieu of other rations*; and in such case the Government is bound to pay for it.

The Commissioners of Claims followed this precedent and allowed for tobacco when taken under General Sherman's order.

The Commissioners of Claims, under twelfth article of treaty of 8th May, 1871, between the United States and Great Britain, adopted the same principle. Hale's report to the Secretary of State, November 30, 1873, page 45, showing an award only when it was "allowed as an army ration."

Your committee, in view of the foregoing statement of facts, recommend the passage of the bill.

O

JOHN M. TURNER.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 6327.]

The Committee on War Claims, to whom was referred the bill (H. R. 6327) for the relief of John M. Turner, submit the following report:

This is a claim for \$100 bounty due John M. Turner, late of Company E, Seventy-eighth Regiment Pennsylvania Volunteer Infantry, under the terms of the act of July 28, 1866, granting a bounty of \$100 to certain Union soldiers.

The claimant was ignorant of his rights under the above-mentioned act, and did not file a claim in the Treasury Department, and had he filed a claim in time, would be entitled to the \$100 additional bounty provided by section 12 of the act of July 28, 1866 (14 Stat. L., p. 322).

Your committee attach to this report a letter from the Secretary of the Treasury under date of March 21, 1898, in reference to this claim, and ask that it be printed as a part of the report; and report back the bill and recommend its passage.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 21, 1898.

SIR: I have the honor to acknowledge your reference of H. R. bill 6327, "appropriating one hundred dollars to John M. Turner, late of Company E, Seventy-eighth Regiment Pennsylvania Volunteer Infantry."

You request information in regard to the matter.

In reply, I have the honor to transmit herewith copy of report made to this office by the Auditor for the War Department.

Respectfully, yours,

L. J. GAGE,
Secretary.

HON. THADDEUS M. MAHON,
Chairman Committee on War Claims, House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR THE WAR DEPARTMENT,
Washington, D. C., March 17, 1898.

SIR: In compliance with your request of the 12th instant, herewith inclosed, for the facts in the Turner case, I have the honor to state that John M. Turner was enrolled August 19, 1861, for three years in Company E, Seventy-eighth Pennsylvania Infantry, and was mustered out with the company November 4, 1864. He received \$100 bounty under section 13 of the act of July 22, 1861 (12 Stat., 270), at time of discharge, and had he filed a claim in time would be entitled to the \$100 additional bounty provided by section 12 of the act of July 18, 1866 (14 Stat., 322), less any stoppages that might be found against him, provided he could fully comply with the requirements of the act.

No claim has ever been filed by him, and as the law now stands (act July 5, 1876, 19 Stat., 74) the bounty provided by the act of July 28, 1866, can not be allowed, as no claim was filed on or before July 1, 1880.

Respectfully, yours,

W. W. BROWN,
Auditor.

The SECRETARY OF THE TREASURY.

O

JOHN W. FAIRFAX.

APRIL 26, 1898.—Laid on the table and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

ADVERSE REPORT.

[To accompany H. R. 2751.]

The Committee on War Claims, to whom was referred the bill (H. R. 2751) for the relief of John W. Fairfax, submit the following report:

This is a claim arising under the terms of the confiscation acts. The claim was referred to the Court of Claims for a finding of facts under the terms of the Bowman Act.

The findings of the Court of Claims are appended to this report.

The claimant was a colonel in the Confederate army, and in 1865 was pardoned by the President. Such pardon restores to the grantee all his rights of property not already vested in others by judicial proceedings; and in his case the property was beyond the control of the Government.

Your committee report the bill adversely.

[House Miscellaneous Document No. 145, Fifty-second Congress, first session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, March 21, 1892.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. CHARLES F. CRISP,
Speaker of the House of Representatives.

[Court of Claims. Congressional case No. 1014. John W. Fairfax *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 2d day of March, A. D. 1891, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim or matter in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 27th day of May, 1886.

C. H. Lee, esq., appeared for claimant, and the Attorney-General, by James H. Nixon, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 25th day of February, 1891, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts as hereinafter stated. The said claimant, after the transmission of his claim as aforesaid, filed the following petition:

(1) That petitioner is a native-born citizen of the United States, and resides in the State of Virginia.

(2) That at the commencement of the late war he owned the entire interest in a farm called "Freestone," in Prince William County, Va., which interest was, in the year 1864, libeled in the United States district court for the eastern district of Virginia, under an act of Congress approved July 17, 1862, entitled "An act to suppress insurrection, etc., and to confiscate the property of rebels," etc. (Vol. 12, p. 589, U. S. Stats. L.), and being so libeled, was condemned to be confiscated and sold for the use of the United States under the provisions of said act.

(3) That at said sale one William Duncan, United States deputy marshal, either for himself or one John Underwood, United States marshal in said district, on the 14th day of July, 1864, the day on which said farm was offered at public auction, became the purchaser thereof for the sum of \$2,100, said sale having been conducted and made by the said Duncan himself, as deputy marshal aforesaid, which said sum of \$2,100, less the expense of sale, as the return of said Duncan made to the court in said confiscation case shows, was paid to the clerk of said court, who turned the same into the Treasury of the United States at Washington.

(4) That your petitioner finding his property had thus been summarily disposed of in his absence, and without notice to him, sought to regain its possession; but this proving impossible, he agreed to repurchase the same of said Duncan, and paid him therefor, by draft on Samuel Harris & Sons, Baltimore, Md., the sum of \$3,000, and thereupon received from said Duncan a deed (in which his wife united), conveying the interest purchased in said farm by said Duncan to your petitioner, which deed was afterwards destroyed by the accidental burning of your petitioner's dwelling house.

(5) That your petitioner was advised, and now avers, that he had no remedy whereby he could obtain relief in the premises, and obtain repayment except by application to Congress for the exercise of its exclusive and plenary powers in such cases, he having for some time been under such legal and political disabilities as excluded him from bringing any suit for the recovery of his real or supposed rights. Accordingly your petitioner made his appeal to Congress as soon as he could obtain the proper record of facts in his case, as will appear by his memorial to that body, wherein he set forth substantially as follows:

"That said memorialist had been a colonel in the Confederate army, but had since taken the oath of allegiance to the United States. That at the outbreak of said war he owned a joint interest in a tract of land in Prince William County, Va., called Freestone, containing about 600 acres. That in May, 1864, a libel against his interest in said land was filed in the United States district court for the eastern district of Virginia, under which, in alleged conformity to the confiscation laws of the United States, his said interest was declared to be confiscated and ordered to be sold for the use of the United States. That such sale was accordingly made in July, 1864, when one William Duncan, deputy marshal of the United States (who made the sale) became the purchaser thereof for \$2,100 and paid said purchase money, less expenses of sale to the clerk of the court (as required by the said court), who turned the same into the United States Treasury at Washington. And your petitioner filed with, and as part of his said memorial, a certified copy of the record in said libel suit. And finally, averring that the recent so-called confiscation law of 1862 had never been fully enforced, but that all moneys paid for property sold thereunder had been refunded by the Government, he prayed relief in the premises from Congress, as in his said memorial set forth."

(6) That said memorial and accompanying papers were during the Forty-ninth session of Congress (in May, 1866), referred by the Committee on War Claims of the House of Representatives to this honorable court for examination and report, as required by the first section of an act entitled "An act to afford assistance and relief to Congress, etc.," approved March 3, 1883, commonly known as the Bowman Act.

(7) That the proceedings in said libel suit were, as your petitioner is advised and now avers, irregular, illegal, and void, for the following reasons:

(a) There were no proper notices given of the time, place, and terms of sale of said property as required by the order of court.

(b) No day was given any party in interest to come in and object to the alleged sale.

(c) There was no report to the court of any sale of said property.

(d) There was no decree or order of court confirming the alleged sale.

(e) Neither the marshal, Underwood, nor his deputy, Duncan, could legally have become the purchaser of said property. (See court record filed herewith.)

(8) That a sale made and the proceeds thereof received under such circumstances by the United States Government, or its authorized agents, constitute said Government trustee of the owner of such property, and such proceeds are only to be regarded as money held in trust for the use of such owner.

(9) Wherefore your petitioner, referring to his said memorial to Congress, and all records and accompanying papers sent for examination to this honorable court, as aforesaid, prays that the same may be received as part of this petition and as proofs of the facts therein alleged. He also prays that this honorable court, responding to the call of said Congressional committee, as provided in the first section of the aforesaid act of March 3, 1883, may make such findings, recommendations, and reports herein as justice and equity require; that so the relief prayed by him may be afforded.

Respectfully submitted.

JOHN W. FAIRFAX, *Petitioner.*

FINDINGS OF FACT.

I.

In the year 1864 proceedings in the district court of the United States for the district of Virginia were commenced against certain real estate under the act entitled "An act to suppress insurrection, to punish treason and rebellion, and to confiscate the property of rebels, and for other purposes." The said proceedings had relation to the interests of said claimant.

The steps taken in said proceedings are shown by the different papers contained in Exhibit A, marked Nos. 1, 2, 3, 4, 5, 6, 7, and 8.

No. 1.

OFFICE U. S. DISTRICT ATTORNEY FOR THE DISTRICT OF VIRGINIA,
Alexandria, Va., March 3rd, 1864.

To the marshal of the United States for the district of Virginia:

In compliance with general instructions, issued by the Attorney-General under the act of July 17th, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," I have to direct that you seize all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres, more or less, together with all the improvements, buildings, rights, privileges, appurtenances, and other hereditaments to the same belonging, or in any wise appertaining, and all right, title, interest, and estate of John W. Fairfax therein, as proceedings are to be instituted to secure the confiscation of the same to the use of the United States, under the above-entitled act.

You will report the seizure to me, when the same shall have been made.

L. H. CHANDLER,
U. S. District Attorney.

DAVIS and BRADSHAW.

No. 2.

District court of the United States for the eastern district of Virginia.

THE UNITED STATES

vs.

ALL THE RIGHT, TITLE, INTEREST, AND ESTATE OF JOHN W. FAIRFAX in and to all that piece or parcel of land situate, lying, and being at Freestone Point; in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less.	}	Confiscation.
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On reading and filing the libel in this case, the court orders that process of monition issue as prayed and appoints the third Friday of June, 1864, and the court room

in the city of Alexandria as the time and place of trial of this cause; and also orders that notice of said time and place of trial, and of the substance of the said libel, be given by publication thereof in the Virginia State Journal, a newspaper published in the city of Alexandria, twice a week for two weeks prior to said time of trial; and also by posting up the same at the court-house door; and that proclamation of the pendency of this suit be made by the marshal at the court-house door two times weekly until the day of trial.

JOHN C. UNDERWOOD,
Dist. Judge.

(Endorsed:) 1. No. 194. United States *vs.* All the right, title, John W. Fairfax. Order for process, etc. Returnable 3rd Friday June, 1864. Filed and entered May 31, 1864. W. H. Barry, clerk.

No. 3.

District court of the United States for the eastern district of Virginia.

To John W. Fairfax and to all whom it may concern, greeting:

Notice is hereby given that on the 31st day of May, 1864, all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, was seized by the marshal of the United States for said district as forfeited to the use of the United States, and the same is libeled and prosecuted in this court in the name of the United States, for condemnation for the causes in the said libel set forth, and that the said cause will stand for trial at the court room in the city of Alexandria on the 3rd Friday of June next, when and where all persons are warned to appear to show cause why condemnation should not be decreed, and to intervene for their interests.

Dated May 31st, 1864.

WM. H. BARRY, *Clerk.*

(Endorsed:) 2. No. 194. United States *vs.* All the right, title, John W. Fairfax. Notice of seizure and libel and time and place of trial, 3rd Friday, June, 1864. Filed May 31st, 1864. Wm. H. Barry, clerk.

No. 4.

To the judge of the district court of the United States for the eastern district of Virginia:

This is the libel of information of L. H. Chandler, United States attorney for the eastern district of Virginia, in behalf of the Government of the United States against all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, together with all the improvements, buildings, rights, privileges, appurtenances, and other hereditaments to the same belonging or in any wise appertaining and against all persons lawfully intervening for their interest therein.

And thereupon the said L. H. Chandler, United States attorney as aforesaid, doth allege and articulately propounded as follows:

I. That certain States forming a part of the territory and constituting a part of the Government of the United States, and specifically enumerated by the President of the United States, in his proclamation duly issued, and bearing date the first day of July, A. D. eighteen hundred and sixty-two, are engaged in armed rebellion against the lawful authority of the United States.

II. That by the act of the Congress of the United States, approved the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," provision was made for the seizure and confiscation of the property of persons engaged in armed rebellion against the lawful authority of the United States, as therein set forth.

III. That the President of the United States did, on the twenty-fifth day of July, in the year of our Lord eighteen hundred and sixty-two, issue his proclamation warning all persons within the contemplation of the sixth section of the said act of Congress of July 17, A. D. 1862, to cease from participating in, aiding, countenancing, and abetting the existing rebellion against the Government of the United States, as provided for by said act.

IV. That John W. Fairfax, on the said seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, was, and previously thereto had been, the owner of real estate in the county of Prince William, eastern district of Virginia, described as follows: All that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, together with all the improvements, buildings, rights, privileges, appurtenances, and other hereditaments to the same belonging or in anywise appertaining.

V. That the said John W. Fairfax, subsequently to said seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, held and exercised an office and agency of honor, trust, and profit under the government of the so-called Confederate States, and under one of the said several States of said Confederacy, and under the laws thereof, and that the said John W. Fairfax accepted the appointment and was elected to said office and agency after the date of the pretended ordinance of said State, and did take an oath of allegiance to, and to support the constitution of, the so-called Confederate States.

VI. That the said John W. Fairfax, owning property in the said county of Prince William as aforesaid, has, since the said seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, assisted and given aid and comfort to the rebellion and to those engaged in the rebellion against the lawful authority and against the Government of the United States in this, that the said John W. Fairfax did, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, and at various other times between that date and the date of the filing of this libel of information, give aid and comfort to said rebellion by acting as a soldier, and as an officer, and as a noncommissioned officer, in the army any navy of the so-called Confederate States, and by contributing money and property to the aid and encouragement of those engaged in the rebellion against the lawful authority of the United States, and to the government of the so-called Confederate States.

VII. That the said John W. Fairfax, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, was engaged in armed rebellion against the Government of the United States, and in aiding and abetting such rebellion, and notwithstanding that the President of the United States, on the 25th day of July, eighteen hundred and sixty-two, did issue his proclamation, as aforesaid, warning all persons within the contemplation of the sixth section of the said act of Congress of July the seventeenth, eighteen hundred and sixty-two, to cease participating in aiding, countenancing, and abetting such rebellion, the said John W. Fairfax did not, within sixty days after the said proclamation was duly given and made, cease to aid, countenance, and abet such rebellion, and did not return to his allegiance to the United States.

VIII. That the said property herein described has been seized by the United States marshal for the district of Virginia in compliance with instructions issued by the Attorney-General to district attorneys of the United States, and by virtue of the fifth section of the act approved on the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

IX. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be condemned to their use.

Wherefore, prayer is hereby made to your honor that process of monition may issue against the owner and owners of the property herein described, and against all persons interested or claiming an interest therein, warning them at some early day, to be therein named, to appear and answer this libel of information; and the owner of said property being absent and nonresident, prayer is further made for order of publication, in the usual form, and for such further and other relief as to law and justice may appertain and as this court is competent to give in the premises.

May 31st, 1864.

L. H. CHANDLER, *U. S. Attorney.*

(Endorsed:) 4. 194. U. S. district court for eastern Virginia, at Alexandria. United States *vs.* all the right title John W. Fairfax. Libel of information. Filed May 31st, 1894. W. H. Barry, Clerk.

At a special term of the district court of the United States of America for the eastern district of Virginia, held at the court room in the custom-house building, in the city of Alexandria, on Thursday, the 23rd day of June, in the year of our Lord one thousand eight hundred and sixty-four.

Present: The Honorable John C. Underwood, district judge.

UNITED STATES

vs.

ALL THE RIGHT, TITLE, INTEREST, AND ESTATE OF JOHN W. FAIRFAX ON
and to all that piece or parcel of land situate, lying, and being at Freestone
Point, in the county of Prince William, in the eastern district of Virginia,
and located on the Potomac River, between the mouth of the Occoquan
River and Dumfries, and known as the fishery and real estate of John W.
Fairfax, containing six hundred acres of land, more or less. } No. 194.

The papers in this cause having been heretofore returned, the usual proclamation having been made, the default of all persons being duly entered, and notwithstanding said default, witnesses having been called and examined by L. H. Chandler, attorney for the United States, and due deliberation being had on the pleadings and proofs, it is thereupon, on motion of the said L. H. Chandler, ordered, adjudged, sentenced, and decreed by the court that the real property mentioned and described in the libel in this cause be, and the same accordingly is, confiscated and condemned as forfeited to the United States.

And upon like motion it is further ordered, adjudged, and decreed that the clerk of this court issue a decree of *venditioni exponas* to the marshal of the district, returnable according to same; and that the said marshal, after having given at least twenty days' notice of the time, place, and terms of sale by publication thereof in one or more newspapers published in the city of Alexandria and in one or more newspapers published in the city of Washington, D. C., sell the said property at public sale, for cash, to the highest bidder, and execute a deed for the real estate to the purchaser, and bring the proceeds of said sale into this court for its action thereon.

JOHN C. UNDERWOOD, *Dist. Judge.*

(Endorsed): 5. 194. United States vs. All the right, title John W. Fairfax. Decree. Filed and entd. June 23rd, 1864. W. H. Barry, clerk.

No. 6.

The President of the United States to the marshal for the eastern district of Virginia, greeting:

You are hereby commanded to give public notice, at least fourteen days before the day of trial hereinafter mentioned, by advertisement in the Virginia State Journal, a newspaper published in the city of Alexandria, and by posting up a notification at the court-house door of the district court of the eastern district of Virginia in said city, and by proclamation at said court-house door twice a week till the day of trial aforesaid, that L. H. Chandler, attorney of the United States for said district, has caused all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being at Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River, between the mouth of the Occoquan River and Dumfries, and known as the Fishery, and real estate of John W. Fairfax, containing six hundred acres of land, more or less, to be seized by you as forfeited to the United States.

That he did, on the 31st day of May, 1864, file in the clerk's office of said district court a libel of information on behalf of the United States against the said real estate, and against all persons lawfully intervening for their interest therein, and for the causes in said libel set forth, praying for condemnation of the same to the use of the United States, and that said court has appointed the 3rd Friday of June, 1864, and the court room in the said city, as the time and place for the trial of said cause, when and where all persons interested in said real estate, or claiming an interest therein, may appear and make their allegations in that behalf.

Herein fail not, and make return of this warrant into said clerk's office without delay, so endorsed as to show the time and manner of its execution by you.

Witness the honorable John C. Underwood, United States district judge for the eastern district of Virginia, this 31 day of May, A. D. 1864.

W. H. BARRY, *Clerk.*

(Endorsed:) 6. No. 194. United States vs. All the right, title, &c. John W. Fair-

fax. Monition. Returnable 3rd Friday June, '64. Issued May 31, 1864. Filed June 17, 1864. W. H. Barry, Clerk.

I hereby certify that the notice has been posted, published, and proclaimed as within commanded.

JOHN UNDERWOOD, *U. S. M.*,
P. W. A. DUNCAN, *Deputy*.

ALEXANDRIA, VA., *June 17, 1864.*

No. 7.

UNITED STATES OF AMERICA, *Eastern District of Virginia, ss:*

The United States of America to the marshal of the eastern district of Virginia, greeting:

Whereas a libel was filed in the district court of the United States for the eastern district of Virginia, at Alexandria, on the 31st day of May, in the year of our Lord one thousand eight hundred and sixty-four, by L. H. Chandler, against all the right, title, interest, and estate of John W. Fairfax in and to all that piece or parcel of land situate, lying, and being in Freestone Point, in the county of Prince William, in the eastern district of Virginia, and located on the Potomac River between the mouth of Occoquan River and Dumfries, and known as the fishery and real estate of John W. Fairfax, containing six hundred acres of land, more or less, praying that the same may be condemned and sold for the causes on the said libel alleged; and

Whereas the said real estate has been attached by the process issued out of the said district court in pursuance of the said libel, and is now in custody by virtue thereof, and such proceedings have been thereupon had that by the decree of the said court on this cause made and pronounced on the 23rd day of June, in the year of our Lord one thousand eight hundred and sixty-four, the said real estate was condemned and ordered to be sold by you, the said marshal, after giving twenty days' notice of such sale, according to law, in one of the newspapers published in the city of Alexandria and one of the newspapers published in the city of Washington, D. C.

Therefore you, the said marshal, are hereby commanded to cause the said real estate so condemned and ordered to be sold, to be sold in the manner and form upon the notice, and at the time, place, and upon the terms by law required; and that you have the money accruing from said sale in said court at Alexandria on the 6th day of August, eighteen hundred and sixty-four, and that you then pay the same to the clerk of the court, and have you also then and there this writ.

Witness, the Hon. John C. Underwood, judge of the said court, at Alexandria, in the eastern district of Virginia, this 24th day of June, in the year of our Lord one thousand eight hundred and sixty-four, and of our Independence the eighty.

W. H. BARRY, *Clerk*.

Sold July 19th, 1864, for.....	\$2,100.00
Expenses	\$27.50
Fees and commissions.....	71.00
	98.50
	2,001.50

Paid gross amount to clerk and received fees and expenses as per statement above.

JOHN UNDERWOOD, *U. S. M.*,
P. W. A. DUNCAN, *Deputy*.

No. 8.

UNITED STATES OF AMERICA, *Eastern District of Virginia, ss:*

I, William B. Wall, clerk of the district court of the United States for the eastern district of Virginia, at Richmond, do hereby certify that the foregoing is a true transcript from the record and proceedings of the cause therein named.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Richmond, in said district, this 8th day of Dec'r, 1884.

[SEAL.]

WM. B. WALL, *Clerk*.

UNITED STATES OF AMERICA, *Eastern District of Virginia, ss:*

I, Robert W. Hughes, judge of the district court of the United States for the eastern district of Virginia, do hereby certify that William B. Wall, who hath given the

foregoing certificate, is clerk of said court, and that his said attestation is in due form.

Given under my hand this 8th day of December, 1884.

ROBT. W. HUGHES, *District Judge.*

II.

No testimony has been taken since the matter was transmitted to this court as aforesaid.

It does not appear, except from said exhibit, what the interest of said claimant was in said premises.

The said claimant was a colonel in the Confederate army, and as such participated in the late war.

In the year 1865 he was specially pardoned by the President.

BY THE COURT.

Filed March 2, 1891.

A true copy.

Test, this 21st day of March, A. D. 1892.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

O

BENJAMIN S. BARNES.

APRIL 26, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 369.]

The Committee on War Claims, to whom was referred the bill (H. R. 369) for the relief of Benjamin S. Barnes, submit the following report:

The proof filed in support of the bill shows that Benjamin S. Barnes, of Essex County, Mass., was, on the 26th of August, 1862, the possessor and owner in fee simple of a certain farm, with the farm buildings thereon, situated in said county of Essex; that on the said August, 26, soldiers in the service of the United States were ordered to be encamped thereon by Capt. William McKim, assistant quartermaster of the United States; that soldiers then and thereafterward encamped thereon, under said orders, comprised regiments of Massachusetts troops; that the encampment was under the command of Col. Edward F. Jones; that the said soldiers remained on said farm from said date to November 29, 1862; that during said time, by order of the post commandant, the wall was taken away to make room, and the best of it used to stone wells, ovens, sinks, drains, etc., and that wood and timber were cut off by order of the officers to make more room back of the camp, so that the camp might be on a straight line; that the troops afterwards burned the said wood and timber for fuel; that also said soldiers did great and serious damage and injury by destroying claimant's wood, timber, barn, and other property by fire, consuming the fruit and other crops growing on said farm.

It appears from the records and evidence in reference to the subject-matter of this bill, obtained from the War Department and filed in this case, that the claimant filed a claim against the United States; that Captain McKim, assistant quartermaster, United States Army, requested Abram D. Wait and James Kimball, two of the county commissioners of said Essex County, to view the said premises and determine the amount of damage and loss as herein alleged; that said county commissioners, after notifying parties interested, met at Boxford, Mass., on the 21st and also on the 22d of said October, viewed

and examined the premises, and heard witnesses; that the said commissioners again on the 25th of November and on the 8th and 16th of December following, having in the meantime been joined, by order of Col. H. Day, military commander, with Capt. R. M. Morris, of the Third United States Cavalry, on the part of the United States, did make a further examination; that in conclusion they awarded the sum of \$1,273, to be paid to the claimant by the United States, and that the costs of said examination be also paid by the United States.

Your committee is of opinion that the claimant suffered great loss, and has never received from the United States, or from any other source, any satisfaction thereof.

The committee do not regard the payment of this award as a question submitted to their decision upon the original facts on which the award is based. It has been determined and allowed by a military board, called under the apparent sanction of the Government, and whose action seems to have been approved by the officer commanding the department, and it has not been paid. And the action of the board seems to have been approved by the War Department. The committee use the term "seems to have been approved" because the papers and record remaining in that Department show no disapproval, which may be said to be a negative pregnant almost as strong as affirmative proof; and your committee think its findings are entitled to credit, and to hold such adjudications, not formally disapproved by the authority convening the board, as final.

The committee report back the bill and recommend its passage.



ESTATE OF DENNIS O'DEA.

APRIL 26, 1898.—Laid on the table and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 8305.]

The Committee on War Claims, to whom was referred the bill (H. R. 8305) for the relief of the estate of Dennis O'Dea, submit the following report:

It appears that the claim of Dennis O'Dea was referred to the Court of Claims for a finding of facts under the terms of the act approved March 3, 1883, and commonly known as the "Bowman Act," on May 1, 1888; and on January 16, 1890, the Court of Claims dismissed the case for want of further jurisdiction, on the preliminary inquiry of loyalty. (See House Mis. Doc. No. 56, Fifty-first Congress, first session.)

Your committee report adversely and recommend that the bill do lie upon the table.

○

GIDEON HOLTON.

APRIL 26, 1898.—Laid on the table and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

ADVERSE REPORT.

[To accompany H. R. 7067.]

The Committee on War Claims, to whom was referred the bill (H. R. 7067) for the relief of Gideon Holton, submit the following report:

The claimant, Gideon Holton, formerly of Minneapolis, Minn., now a resident of Crawford County, Pa., alleges that in the spring of 1864 a call was made on the towns of Bristol and Harmony, in said State of Minnesota, to furnish each a quota of twenty-one able-bodied men for military service under the United States Government. These towns being thinly settled and unable to furnish their quota, and their citizens being given to understand that in case they should vote, by tax levy to be made on the lands therein situated, to raise the sum of \$6,300 each, to be used in procuring substitutes from the more thickly settled portions of the State, that they should be exempt from all drafts for military service during the rest of the war, voted each to raise, and did raise, the sums aforesaid, and expended the same procuring substitutes.

The claimant voted in favor of raising said sum as aforesaid, and his lands were taxed in each of said towns, and contributed their proportionate share of said sums, and the claimant alleges that he so voted on the distinct understanding that he should be exempted thereby from any and all future drafts for military service. Thereafter, nevertheless, on the 28th of September, 1864, the claimant was, contrary to said understanding, drafted into the military service of the United States from the said town of Bristol. Claimant answered said call and furnished a substitute, who entered and served in the United States Army in place of the petitioner.

The claimant also alleges that the Government is indebted to him in the sum of \$6,000 for bounty taxes paid by him and for procuring a substitute.

If the allegations are true, there can be no essential of a contract here which could bind the Government. There was no agreement on his part with Government officials. If, as he alleges, such promises were made, they were made by State or county officials. The idea that the Federal Government is liable is not entitled to serious consideration.

Your committee report adversely to the bill, and that it do lie upon the table.

House documents

Bd.: [496.] 1897/98, Vol. 4 = Congress 55, Sess. 2

Washington, DC 1898

Am.b. 3040-496,4

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